



# Cedar City

10 North Main Street • Cedar City, UT 84720  
435-586-2950 • FAX 435-586-4362  
[www.cedarcity.org](http://www.cedarcity.org)

## CITY COUNCIL WORK MEETING JANUARY 22, 2014

**Mayor**  
Maile L. Wilson

**Council Members**  
Ronald R. Adams  
John Black  
Paul Cozzens  
Don Marchant  
Fred C Rowley

**City Manager**  
Rick Holman

The City Council will hold a work meeting on Wednesday, January 22, 2013, at 5:30 p.m., in the Council Chambers at the City Office, 10 North Main Street, Cedar City, Utah. The agenda will consist of the following items:

- I. Call to Order
- II. Agenda Order Approval
- III. Administration Agenda
  - Mayor and Council Business
  - Staff Comment
    - Employee of the Month, Frank Samhammer - EAC
- IV. Public Agenda
  - Public Comments
- V. Business Agenda
  - Public
    1. Consider the Jones minor lot subdivision located in the vicinity of Bulldog Road and Kittyhawk Road without installing improvements until the time a building permit is pulled – Ron Larsen, In Site Engineering
    2. Consider an agreement delaying the public works improvements for the Jones Minor lot subdivision – Paul Bittmenn
    3. Consider a beer license for Ernie's Truck Plaza located at 1155 West 200 North – Don L. Ipson/Chief Allinson
    4. Consider a raw land lease for Southern Skies Aviation Inc., and Paradigm Developers – Clayton Cheney/Russ Volk
  - Staff
    5. Consider a grant application for the State of Utah Division of Aeronautics for a Pavement Maintenance Grant – Russ Volk
    6. Consider a contract between Cedar City Corp and Creamer & Noble Inc. (FAA Project) – Russ Volk
    7. Consider lease for a Case 580 Super N Loader Backhoe – Wally Davis
    8. Presentation of Economic Development Solar Projects – Brennan Wood
    9. Consider an MOU between Cedar City/Iron County Office of Economic Development and Southwest Utah Renewable Energy Center (SUTREC) – Brennan Wood
    10. Style Guide presentation and discussion – Brennan Wood and Danny Stewart
    11. Consider a contract between State of Utah, Governor's Office of Economic Development and Cedar City for taxi lane improvements – Brennan Wood

12. Review bids for the fabrication and delivery of two steel pedestrian bridges for the East Bench Phase 2 Trail project – Kit Wareham
13. Consider proposal to establish sewer rates for Hometels – Kit Wareham
14. Executive Session – Property Negotiations

Dated this 21<sup>st</sup> day of January, 2014.

  
Renon Savage, CMC  
City Recorder

CERTIFICATE OF DELIVERY:

The undersigned duly appointed and acting recorder for the municipality of Cedar City, Utah, hereby certifies that a copy of the foregoing Notice of Agenda was delivered to the Daily News, and each member of the governing body this 21<sup>st</sup> day of January, 2014.

  
Renon Savage, CMC  
City Recorder

Cedar City Corporation does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

If you are planning to attend this public meeting and, due to a disability, need assistance in accessing, understanding or participating in the meeting, please notify the City not later than the day before the meeting and we will try to provide whatever assistance may be required.

CEDAR CITY COUNCIL  
AGENDA ITEMS IV - 1 and 2  
DECISION PAPER

**TO:** Mayor and City Council

**FROM:** Paul Bittmenn

**DATE:** January 21, 2014

**SUBJECT:** Jones minor lot subdivision and development agreement.

**DISCUSSION:**

The minor lot subdivision will create six (6) lots out of what is now recorded as one 22.61 acre parcel owned by the Jones Family and a portion of a 33.265 acre parcel owned by the Coal Creek Irrigation Company.

The parties subdividing the property have requested that the City approve a delay in the construction of the public works infrastructure improvements required by the City's ordinance.

There is a copy of an agreement in your packets. The agreement is intended to be recorded on the title to the property that is proposed to be subdivided. Recording lets the next buyer know what restrictions and covenants come with the property. So when the property is sold and someone comes in for a building permit they will have the opportunity to know about the required improvements and the City will be able to rely on the agreement as to the new owner.

If the agreement is not recorded prior to the property being subdivided and sold there will be no notice to the next owner and the City will not be able to rely on the agreement and the City will not have a tool to use in getting the required infrastructure improvements.

If the Council is going to consider approving the minor lot subdivision and the agreement please make sure we have the agreement signed and recorded prior to the recording of the deeds for the minor lot subdivision. One way to accomplish this is to include in the motion approving the minor lot subdivision that staff is to hold the deeds until the agreement is recorded and then record the deeds. Another way to protect the City's future ability to require the infrastructure improvements is to authorize the Mayor to enter the agreement, but only after the other two (2) parties have signed the agreement. A third option is to combine the first two (2) options so the City is the last to sign the agreement, and the City holds all deeds to the property until the agreement is recorded.

If you have any questions please call.





## DEVELOPMENT AGREEMENT

### DELAYING INSTALLATION OF INFRASTRUCTURE IMPROVEMENTS

This agreement is entered into on the \_\_\_\_ day of \_\_\_\_\_, 2013, between Cedar City Corporation, a Utah municipal corporation and political subdivision, hereinafter referred to as CITY; and Homers Boys, LLC, a \_\_\_\_\_ Corporation, hereinafter referred to as HOMERS; and Coal Creek Irrigation Company, a \_\_\_\_\_ Corporation, hereinafter referred to as COAL CREEK.

**Comment [P1]:** Homers Boys, LLC is not listed on the department of commercial code web page. What state are they incorporated in?

**WHEREAS**, HOMERS owns approximately 22.61 acres of real property located within the boundaries of CITY, hereafter referred to as HOMERS PROPERTY. Said property is identified by Iron County Account Number 0140225, Iron County Parcel Number B-1319-0000-0000, and the following legal description:

**Comment [P2]:** A check of the Utah Department of Commerce shows Coal Creek Irrigation Company expired in 2001. Is Coal Creek Irrigation incorporated in some other state?

**Comment [P3]:** We need a legal description for the entire HOMERS parcel prior to the minor lot subdivision taking place

**WHEREAS**, COAL CREEK owns approximately 33.26 acres of real property located within the boundaries of CITY. Said property is identified by Iron County Account Number 0140639 and Iron County Parcel Number B-1293-0000-0000. A portion of COAL CREEK's property containing approximately 2.841 acres included in this agreement, is hereafter referred to as COAL CREEK PROPERTY, and is more particularly described as:

**Comment [P4]:** We need a legal description for the portion of Coal Creek Irrigation's property that is to be included in the proposed minor lot subdivision.

**WHEREAS**, the HOMERS PROPERTY and the COAL CREEK PROPERTY are hereinafter collectively referred to as the SUBDIVISION PROPERTY, a map of said property is attached hereto and incorporated herein as exhibit #1; and

**WHEREAS**, HOMERS and COAL CREEK have approached CITY with a plan to subdivide the SUBDIVISION PROPERTY in order to facilitate a property trade as well as future property development; and

**WHEREAS**, CITY's ordinance and engineering standards require installation of public infrastructure improvements such as curb, gutter, sidewalk, road, water, storm drain, streetlights, and sewer concurrent with subdivision; and

**WHEREAS**, the above properties are located in an area of CITY where the future development of said property will necessitate off-site improvements to CITY infrastructure; and

**WHEREAS**, in order to facilitate the subdivision and future development of the herein described properties and pursuant to the authority under Cedar City Ordinance 26-III-11 CITY desires to enter this development agreement to delay the installation of infrastructure improvements.

**NOW THEREFORE** it is hereby agreed by CITY, HOMERS, and COAL CREEK that mutual consideration exists to support the formation of this agreement.

**NOW THEREFORE** CITY, HOMERS, and COAL CREEK hereby agree to the following:

1. PUBLIC INFRASTRUCTURE IMPROVEMENTS.

A. The public infrastructure improvements on the SUBDIVISION PROPERTY include all public improvements such as curb, gutter, sidewalk, street lights, storm drain, road improvements, water lines, sewer lines, and any other public infrastructure pursuant to CITY's ordinances, engineering standards, fire codes, building codes, or any other applicable rule of general application adopted by CITY in effect at the time a building permit is issued.

B. The public infrastructure improvements on the SUBDIVISION PROPERTY include on-site improvements and off-site improvements to public infrastructure pursuant to CITY's ordinances, engineering standards, fire codes, building codes, or any other applicable rule of general application adopted by CITY in effect at the time a building permit is issued. By way of example and not by way of limitation, such as off-site improvements may include improvements to CITY's water system necessary to provide water and/or fire protection for the property.

C. When the building permit is pulled for any lots that are or may hereafter be created on the SUBDIVISION PROPERTY CITY will notify the person or entity requesting the building permit of the necessary public infrastructure improvements for each lot. The public infrastructure improvements must be completed, inspected, and accepted by CITY prior to the issuance of a certificate of occupancy.

D. The owner of the lot will warrant that the installed public improvements are fit for the purpose for which they were constructed for a period of one (1) year. Any defects in workmanship, materials, or construction will be replaced by the property owner at the property owner's expense during the warranty period.

2. CREATION OF A LOCAL DISTRICT

A. From time to time CITY may seek to create a local district pursuant to the provisions of Title 17B of the Utah Code for the financing and construction of public infrastructure improvements upon the SUBDIVISION PROPERTY. The local district may assess a proportionate share of the cost for the improvements to the owner of the property and place a lien upon the property until the proportionate share of the improvements is paid. The right to protest the creation of the local district is hereby irrevocably waived, and this waiver is a condition that shall run with the land and bind future land owners.

3. MISCELLANEOUS

A. Choice of Law. This development agreement shall be interpreted pursuant to the provisions of the law of the State of Utah.

B. Venue and Jurisdiction. In case court action is initiated related to the provisions of this agreement venue is vested in the 5<sup>th</sup> Judicial District Court in and for Iron County and Jurisdiction is vested in the District Courts in and for the State of Utah.

C. Recording. This agreement is intended to be recorded on the title to the SUBDIVISION PROPERTY. All rights, duties, responsibilities, waivers, warranties, and other provisions contained herein are intended to run with the land and serve to bind present and future owners.

D. Ability to enter agreement. The persons signing this agreement on behalf of their respective entities do so with the intent to bind their respective entities and do so after having received approval pursuant to the rules established by their respective entities.

E. Interpretation. This written document and the documents referenced herein constitute the entire agreement. No prior, contemporary, or future written or oral representations not contained in this document and the documents referenced herein shall be binding.

F. Amendment. This agreement may only be amended by a written agreement duly adopted and signed by CITY and all owners of property within the SUBDIVISION PROPERTY at the time the amendment is negotiated. No amendment shall be effective unless it is duly recorded on the title to the SUBDIVISION PROPERTY.

G. Termination. This agreement is intended to run with the title to the property to the SUBDIVISION PROPERTY. It is intended to allow the current subdivision of the SUBDIVISION PROPERTY and preserve the duty of the property owners to install public infrastructure. The agreement shall not terminate until the following have occurred: (1) the public infrastructure is installed; (2) the public infrastructure is accepted by CITY; (3) the one (1) year warranty period has expired as to the original public infrastructure improvements and any warranty work, and; (4) the completion of any action to enforce the provisions contained herein. This agreement shall automatically terminate as to any individual lot once all of the conditions in this paragraph have been satisfied. The termination of this agreement on an individual lot shall not be deemed to be a termination of this agreement on the other lots. Each lot must satisfy the terms and conditions contained in this paragraph to terminate the provisions of this agreement.

H. Headings. The headings contained herein are not for the aid of the reader and are not intended to be substantive provisions of this agreement.

I. Attorney fees. In the event of a dispute related to the provisions contained herein each party shall pay their own attorney fees and costs.

*Remainder of page intentionally left blank.*

CITY's signature page.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
MAILE L. WILSON  
MAYOR

[SEAL]  
ATTEST:

\_\_\_\_\_  
RENON SAVAGE  
RECORDER

STATE OF UTAH        )  
                              :SS.  
COUNTY OF IRON     )

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 2014, before me, the undersigned, a Notary Public, in and for the State of Utah, duly commissioned and sworn as such, personally appeared Maile L. Wilson, known to me to be the Mayor of Cedar City Corporation, and Renon Savage, known to me to be the City Recorder of Cedar City Corporation, and acknowledged to me that he the said Maile L. Wilson and she the said Renon Savage executed the foregoing instrument as a free and voluntary act and deed of said corporation, for the uses and purposes therein, and on oath state that they were authorized to execute said instrument, and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove written.

NOTARY PUBLIC

HOMERS' signature page.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Print name and title of authorized  
representative

STATE OF UTAH       )  
                              :ss.  
COUNTY OF IRON    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, personally appeared before me  
who duly acknowledged to me that \_\_\_he signed the above and foregoing document.

NOTARY PUBLIC

COAL CREEK's signature page.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Print name and title of authorized  
representative

STATE OF UTAH       )  
                              :ss.  
COUNTY OF IRON    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, personally appeared before me  
who duly acknowledged to me that \_\_\_he signed the above and foregoing document.

NOTARY PUBLIC

# Exhibit #1

SUBDIVISION PROPERTY map.

**Comment [P5]:** Need a map showing the property involved in the subdivision.







# CEDAR CITY

10 North Main • Cedar City, UT 84720

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## APPLICATION FOR BEER LICENSE AND/OR LIQUOR SET-UP

Account # 137487

Receipt # \_\_\_\_\_

### LICENSE FEES

Class A \$150.00

Class B \$250.00

Set-up \$ 50.00

Dance Hall \$100.00

Penalty \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

Name of Business ERNIE'S TIZULK PLAZA, INC  
dba ERNIE'S TOO

Address 1155 West 200 North Cedar City, UT.

Mailing Address P.O. Box 910550 - ST. GEORGE, UT.

Name of Applicant(1) DON L. IRSON

Address 539 DIAGONAL

Citizenship US Date of Birth 4-27-47

Name of Applicant(2) \_\_\_\_\_

Address \_\_\_\_\_

Citizenship \_\_\_\_\_ Date of Birth \_\_\_\_\_

\*If more than two Applicants, please use additional pages.

Property Owner Name TWIN PINES MANAGEMENT

Address 50 West 200 North - Cedar City

Date of Application JAN 10, 2014

Opening Date of Business \_\_\_\_\_

Type of Organization (Check all that apply)

Corporation ☒ LLC \_\_\_\_\_ Partnership \_\_\_\_\_ Proprietorship \_\_\_\_\_ New Owner \_\_\_\_\_ Change of Use \_\_\_\_\_

All Applicants, partners, officers, and directors, plus stockholders/members with 20% ownership must provide:

- 1) Name, address, and date of birth
- 2) Place(s) of residence for last 5 years
- 3) BCI background check
- 4) References
- 5) List of all felony and misdemeanor criminal convictions, including charge description, date of conviction, and the court.

I hereby certify that I have never been convicted of a felony, or of any violation of any law or ordinance related to alcoholic beverages, or of drunken driving, or of keeping a gambling or disorderly house.

I also certify that I have complied with the requirements and possess the qualifications specified in the Alcoholic Beverage Control Act of Utah, and that all the information I have provided in this application is true.

I agree that if a license is issued, it shall be subject to suspension or revocation as provided in Chapter 23 of the Cedar City Ordinances. I also agree to post any bonds required by the City pursuant to the terms of Chapter 23 of the Cedar City Ordinances.

Date 1-10-14

Signed by \_\_\_\_\_

Applicant Agent

Approved by Chief of Police \_\_\_\_\_

Date \_\_\_\_\_

DABC Approval Date \_\_\_\_\_

Council Action: Approved \_\_\_\_\_ Not Approved \_\_\_\_\_ Date \_\_\_\_\_

Make checks payable to: Cedar City Corporation

Liquor and beer license renewals shall be due annually on January 1st of each year. If paid after February 15th, a late penalty of 50% of the amount of the fee shall be added to the original amount due. If paid after April 1st, the fee shall be doubled.



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## ADDITIONAL APPLICANT INFORMATION FORM

PLEASE NOTE: EACH OWNER OR PART OWNER OF THE APPLICANT BUSINESS MUST COMPLETE A SEPARATE "ADDITIONAL APPLICANT INFORMATION FORM."

Name of Applicant DON L. IPSON Phone 435 674-6304  
Address 539 DIAGONAL St. George, UT Zip Code 84770  
Citizenship US Date of Birth 4-27-47 Title PRESIDENT

### PLACE(S) OF RESIDENCE FOR LAST 5 YEARS

Address(1) SAME - SINCE 1989  
Street Address City County State Zip When Lived There  
Address(2) Street Address City County State Zip When Lived There  
Address(3) Street Address City County State Zip When Lived There

Please use additional sheets for additional addresses.

### REFERENCES

Name(1) EVAN VICKERS Date of Birth 5-15-54 Phone 586-9651  
Address 2166 NORTH LOBBLE CREEK CEDAR Signature Evan Vickers  
Name(2) BRAD LAOT Date of Birth 9/24/58 Phone 635-7334  
Address 1194 SOUTH 180 WEST HURRICANE Signature Brad Laot  
Name(3) RICK HOLMAN Date of Birth \_\_\_\_\_ Phone 586-9795  
Address 2163 NORTH Cottonfield Dr Cedar City Signature Rick Holman  
Name(4) RAY ~~STOCKS~~ STOCKS Date of Birth 9-27-60 Phone 649-2700  
Address 1876 W. Wilson Dr Hurricane Signature Ray Stocks  
Name(5) ALAN BEATTY Date of Birth 3-7-50 Phone 635-2783  
Address 35 E. 2005. KAVIRKIN 84745 Signature Alan Beatty

### FELONY AND MISDEMEANOR CRIMINAL CONVICTIONS

Charge(s)	Conviction Date	Felony/Misdemeanor	Court (Name, City, State)
<u>NONE</u>			

Please use additional sheets for additional convictions.

I certify that the above information is correct to the best of my knowledge, and that I have never been convicted of a felony, any violation of any law or ordinance related to alcoholic beverages, drunken driving, or keeping a gambling or disorderly house.

Date 1-10-14

Signed by

[Signature]  
Applicant

**CEDAR CITY COUNCIL  
AGENDA ITEM #4**

**DECISION PAPER**

**TO:** Mayor and City Council

**FROM:** Russ Volk

**DATE:** January 22, 2014

**SUBJECT:** Consider Raw Land Lease Request

**RECOMMENDATION:** Airport Board has approved this lease request and asked to forward on to City Council for consideration

**DISCUSSION:** Southern Skies Aviation Inc. and Paradigm Developers (Clayton Cheney) has requested that it be allowed to lease lot #40 on the 1400 north taxilane inside the airport. The Airport Board considered this matter at its meeting on January 9<sup>th</sup>, 2014 and voted to approve this request and forward on to City Council for consideration.

Request the City Council consider this lease request and allow the Mayor to sign the lease documents.



## **LEASE**

**THIS AGREEMENT**, made and entered on this 30 January 2014, by and between CEDAR CITY CORPORATION, 10 North Main Street, Cedar City, UT 84720, a municipal corporation organized and existing under the laws of the State of Utah, hereinafter referred to as the LESSOR, and Southern Skies Aviation, Inc., a Utah Corporation jointly and severely with Paradigm Developers, a Utah Corporation, both Southern Skies and Paradigm Developers are collectively referred to herein as the LESSEE.

## **WITNESSETH:**

The LESSOR, in consideration of the rental herein agreed to be paid by the LESSEE, and other terms herein to be performed by LESSEE, hereby leases unto LESSEE, that parcel of property located at the CEDAR CITY REGIONAL AIRPORT, Cedar City, Utah, as shown in Exhibit A and more particularly described as follows:

Beginning at a point N 89°55'53" W, 819.96 ft. along the township line and South 764.85 ft. from the northeast corner of Section 4, T36S, R11W, SLM; thence S 75°09'22" E 75.00 ft.; thence S 14°50'38" W, 125.50 ft.; thence N 75°09'22" W, 75.00 ft.; thence N 14°50'38" E, 125.50 ft. to the point of beginning.  
Containing 9412.5 square feet of land.

## **ARTICLE I**

### **TERMS AND RENTALS**

1. Term. The term of this Lease shall be for a period of TWENTY (20) years commencing on the 30 January 2014, and expiring on the 29 January 2034, unless sooner terminated or extended as provided by this Lease. During said 20-year period, the parties shall evaluate the consideration set forth in paragraph 3 of this Article every 5 years to determine sufficiency or fairness thereof. Lessor may increase the consideration, at a rate not to exceed the

aggregate percentage of increase in the overall national consumer price index for the previous five (5) years and not to exceed a maximum of 15 percent. The lesser of the two rates will be utilized.

2. Option to Renew. LESSEE is hereby granted the option to renew this Lease for five separate and successive terms of five (5) years each, subject to negotiation of consideration acceptable to both parties, provided, however, that LESSEE shall give LESSOR written notice of its intention to exercise its option at least sixty (60) days prior to the expiration of this Lease and at least sixty (60) days prior to the expiration of each successive five (5) year renewal term. Any termination for failure to exercise such option shall require thirty (30) days written notice to LESSEE. LESSEE may exercise the option within said 30-day period.

3. Consideration. As and for consideration for the terms set forth herein, the parties stipulate and agree to the sum of \$ 843.75 per year.

4. Southern Skies Inc., and Paradigm Developers agree that they shall be co-promisors as to all terms, duties, rights, responsibilities, and liabilities contained in this agreement. Both Southern Skies Inc., and Paradigm Developers shall individually have the duty to fully perform the obligations contained in this agreement. In the event of default LESSOR shall have the ability to exercise any of the remedies contained herein collectively against the LESSEE and/or individually against either Southern Skies, Inc., or Paradigm Developers.

## ARTICLE II

### SPECIAL COVENANTS-CEDAR CITY REGIONAL AIRPORT

1. Airport Purposes. The LESSEE agrees as a condition precedent to this Lease and to the use and occupancy of the Lease premises that the LESSEE shall at all times use the leased

premises for the primary purpose of constructing and occupying one (1) hangar. LESSEE shall commence construction by way of obtaining a building permit within one year from the date of commencement of this Lease. It is the purpose of this Lease to foster and abet air commerce at Cedar City Regional Airport, and it is not the intent of this Lease to provide premises for uses which do not promote the development and use of the Cedar City Regional Airport. All uses normally incidental to an airport such as car rental agencies, limousine service, restaurants, non-aeronautical businesses, insurance sales, and other such incidental services not directly related to general and commercial aviation are expressly prohibited unless specifically permitted or provided for in this Lease. Any assignment or sub-lease of the leased premises shall comply at all times with these conditions as to use and occupancy of the premises. Any primary use or occupancy contrary to the purposes set forth in this agreement shall constitute a breach of this Lease, and any assignment or sub-lease permitted under the provisions of this Lease shall contain this limitation.

## 2. LESSEE'S PURPOSE.

(a) LESSEE intends to comply with the use and occupancy policies stated in the Lease and will occupy the premises for the purposes of constructing and occupying one Aircraft Hangar.

(b) The LESSEE agrees to notify the LESSOR in writing of any intended change of primary purpose prior to any such change being made by the LESSEE. Any such change in primary purpose shall be first approved by the LESSOR. The LESSOR shall promptly review the proposed change in purpose, and shall consent in writing to the proposed change if such change is consistent with the purposes set forth in paragraph 1 (Airport Purposes) of this Article.

It is understood that these provisions as to change are necessary in order for the City to be advised at all times of the various uses and purposes of all the leased premises on Cedar City Regional Airport.

(c) Failure to commence construction by way of obtaining the building permit within 1 year of the date of commencement of this lease shall constitute a material breach of this Lease Agreement.

(d) LESSEE is responsible for cleanup of all construction refuse from results of any construction on their leased land. All clean-up must be accomplished within fourteen (14) days of completion of construction and issuance of Certificate of Occupancy. If cleanup is not accomplished by LESSEE, LESSOR may at their choosing perform the cleanup and bill LESSEE for cleanup services.

3. Other Uses. The LESSEE shall not use or permit any part of the leased premises to be used for any unlawful purpose or for any purpose or use that may constitute a nuisance or fire hazard. The LESSEE shall not use or allow the leased premises or any part thereof to be used or occupied for any purpose in violation of any law, lawful order, rule or regulation concerning the operation or use of Cedar City Regional Airport.

4. Subordination of Lease.

(a) This Lease shall be subordinate to the provisions of any existing or future agreement between the LESSOR and the United States relative to the operation or maintenance of Cedar City Regional Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development or operation of Cedar City Regional Airport.



(b) In connection therewith, the LESSOR has undertaken and may in the future undertake certain obligations respecting its operation of Cedar City Regional Airport and activities of its contractors, lessees and permittees thereon. The performance by LESSEE of the covenants, promises and obligations contained in this agreement is therefore a special consideration and inducement to the execution of this agreement by the LESSOR and LESSEE. The LESSEE further covenants and agrees that if the administrator of the Federal Aviation Administration, or any other governmental official or body having jurisdiction over the enforcement and the obligations of the City in connection with Federal or State aid, shall have made any orders or required recommendations respecting the performance by LESSEE of its obligations under this agreement, LESSEE shall promptly comply therewith, at such times and to the extent that the City may direct consistent with said orders or required recommendations. Failure on the part of the LESSEE promptly to comply with any such notice or direction shall be cause for cancellation of the agreement by LESSOR.

5. LESSEE's Right to Terminate. Should any governmental body, agency, or official, other than LESSOR, prohibit or otherwise prevent for an unreasonable length of time the use of Cedar City Regional Airport in its present condition for a public airport, or should the continued use of Cedar City Regional Airport as an airport otherwise become impossible or unlawful without the fault of the LESSEE, the LESSEE shall have the option to terminate the Lease on thirty (30) days written notice to the LESSOR, and upon such termination, this agreement shall be at an end. The LESSOR shall notify the LESSEE in writing of the prohibition, and the failure of the LESSEE to exercise the option to terminate within thirty (30) days shall terminate the LESSEE's right of option.

6. Discriminatory Acts Prohibited.

(a) The LESSEE shall furnish any service to be rendered by the LESSEE in connection with or upon leased premises on a fair, equal, and not unjustly discriminatory basis to all users thereof.

(b) The LESSEE, in its use and occupancy of the leased premises, shall not discriminate against any person or class of persons by reason of race, color, religion, sex, age, handicap or national origin.

(c) The LESSOR shall give ten (10) days notice to the LESSEE of any alleged violations of sub-paragraph (a) or (b) and request the LESSEE either correct or justify any such alleged violation. In the event that such allegation remains in dispute, the matter shall be resolved by final decision of the appropriate administrative body or Court of competent jurisdiction. LESSEE shall have thirty (30) days to comply with said decision; in the event of non-compliance, this Lease shall terminate. Any service or rate regulated by a State or Federal regulatory agency shall be deemed to be in compliance with the requirements of sub-paragraphs (a) or (b) until shown to be otherwise in an appropriate proceeding before the agency.

(d) The LESSOR, at its option, may forthwith terminate this Lease without any liability to LESSEE thereunder for any failure by LESSEE without justification to comply with the provisions of subparagraph (a) and (b), subject to the provisions of the preceding paragraph<sup>©</sup>).

7. Sign. The LESSEE may not, without the LESSOR's consent, place or erect any sign on the leased premises. At the termination of this Lease, any such signs shall be removed by the LESSEE at the LESSEE's own expense.

8. LESSOR Definition. The LESSOR includes the City Manager and the Public Works Director.

### ARTICLE III

#### DEFAULT AND ENFORCEMENT

1. Acts of Default Defined. Each of the following shall be deemed a default and a breach of this Lease:

(a) Failure to do, observe, keep and perform any of the terms, covenants, conditions, agreements and provisions of this Lease on the part of the LESSEE or LESSOR for a period of thirty (30) days after notice, except that if any default is not susceptible of being cured within thirty (30) days, either party shall be permitted an extension of thirty (30) days to cure such default, provided they commence promptly and proceed diligently and in good faith to cure such default within the thirty (30) day period; or

(b) The abandonment of the premises by the LESSEE, the adjudication of the LESSEE as a bankrupt, the making by the LESSEE of a general assignment for the benefit of creditors, or any insolvency act that jeopardizes LESSOR's rights hereunder, the appointment of a permanent receiver or trustee in bankruptcy for the LESSEE's property, the appointment of a temporary receiver or trustee in bankruptcy for the LESSEE's property, or the appointment of a temporary receiver not vacated or set aside within ninety (90) days from such appointment, for a period of ten (10) days after notice.

2. LESSOR's Remedies on Default. In the event of any such default by the LESSEE, and at any time thereafter the LESSOR elects to terminate this Lease upon a specified date not less than thirty (30) days after the date of serving such notice, except in case of a default under

sub-division (b) of paragraph 1 of this Article in which event such notice shall not be less than ten (10 ) days from the date of service of such notice, this Lease shall then expire on the date so specified as if the date had been originally fixed as the expiration date of the term, including all options for renewal herein granted, unless such default shall be deemed waived by instrument in writing signed by the LESSOR, or cured by LESSEE before the expiration of the period specified in the notice of termination of this Lease served on the LESSEE. It is expressly agreed by the LESSEE that the written notice may, at the LESSOR's option, by statement expressly included in the notice, be the written notice required by the forcible entry and detainer statutes.

3. LESSEE Remedies on Default. In the event of LESSOR's default, and at any time thereafter, the LESSEE may, upon written notice to the LESSOR, be entitled to the following:

(a) All rights and remedies available at law or in equity, said rights and remedies to be cumulative; and

(b) The option of terminating the lease without further liability, upon thirty (30) days notice filed by the LESSEE to the LESSOR.

4. LESSOR's Re-entry on Default. In the event that this Lease shall be terminated as provided in paragraph 2 of this Article, or otherwise, or in the event that the premises, or any part thereof shall be abandoned by the LESSEE, 30 days vacancy of the premises without notice shall be deemed abandonment, the LESSOR may immediately or at any time thereafter, re-enter and resume possession of the premises or any part thereof, and remove all persons and property therefrom, either by a suitable action or proceeding at law, or by any other lawful means. No re-entry by the LESSOR shall be deemed an acceptance of a surrender of this Lease or a liquidation or satisfaction to any extent whatever of LESSEE's liability to pay rent and additional rent as

herein provided.

5. Right of LESSOR to Re-let. In the event that this Lease shall be terminated as herein provided, or otherwise, or if the premises, or any part thereof, shall be abandoned by the LESSEE, the LESSOR may, in its own name, but as agent for the LESSEE if the Lease be not terminated, or if the Lease be terminated in its own behalf, re-let the whole or any portion of the premises for any period equal to or greater or less than the remainder of said term, for any sum which it may deem suitable and satisfactory, and for any use and purpose which it may deem appropriate, and in connection with any such Lease the LESSOR may make such changes in the character of the improvements on the premises as the LESSOR may determine to be appropriate or helpful effecting such Lease. However, in no event shall the LESSOR be under any obligation to re-let the premises to any lessee which the LESSOR, in the exercise of reasonable discretion, shall deem to be objectionable. The LESSOR shall not in any event be required to pay the LESSEE any surplus of any sums received by the LESSOR on a re-letting of the premises in excess of the rent reserved in this Lease.

6. Damages on Default. In the event that this Lease is terminated by reason or default, or if the premises shall have been abandoned, whether or not the premises are re-let, the LESSOR shall be entitled to recover from the LESSEE, and the LESSEE shall pay to the LESSOR the following costs:

(a) An amount equal to all expenses, if any, including reasonable attorney's fees incurred by the LESSOR in recovering possession of the premises, and all reasonable costs and charges for care of the premises while vacant, which damages shall be due and payable by the LESSEE to the LESSOR at such time as such expenses shall have been incurred by the LESSOR; and

(b) An amount equal to the amount of all rent reserved under this Lease, less the net rent, if any, collected by the LESSOR on the several days on which the rent would have become due and payable; that is to say, upon each of such days the LESSEE shall pay to the LESSOR the amount of deficiency then existing. Such net rent collected on re-letting by the LESSOR shall be computed by deducting from the gross rents collected all expenses incurred by the LESSOR in connection with the re-letting of the premises or any part thereof, including, without limitation, brokers' commissions and the cost of repairing the premises or removing any structures.

7. Separate Action for Damages. Without any previous notice of demand, separate action may be maintained by the LESSOR against the LESSEE from time to time to recover any damages which, at the commencement of any such action, have then or theretofore become due and payable to the LESSOR under this Lease, without waiting until the end of the then-current term.

8. LESSOR's Failure to Enforce and Non-waiver. No failure by the LESSOR to insist upon the strict performance of any term, condition or covenant of this Lease or to exercise any right or remedy available on a breach thereof, and no acceptance of full or partial rentals during the continuance of any such breach shall constitute a waiver of any such breach or any such term, condition, or covenant. No term, condition or covenant of this Lease required to be performed by the LESSEE, and no breach thereof, shall be waived, altered or modified, except by a written instrument executed by the LESSOR. No waiver of any breach shall affect or alter any term, condition or covenant of this Lease, and such term, condition or covenant shall continue in full force and effect with respect to any other than existing or subsequent default or breach thereof, and any other or subsequent default or breach may be enforced by the LESSOR as provided by

this Lease.

9. LESSOR's Rights Cumulative. The rights given to the LESSOR in this Lease are cumulative, and in addition to any right that may be given to the LESSOR by any statutes, rule of law or otherwise, the LESSOR may exercise any such rights without limitations.

10. LESSOR's Right to Perform. If the LESSEE shall be in default hereunder, the LESSOR at LESSOR's discretion may cure such default on behalf of the LESSEE for the account and at the expense of LESSEE, in which event the LESSEE shall reimburse the LESSOR for all sums paid to effect such cure, together with interest at the rate of eight percent (8%) per annum and reasonable attorney's fees. In order to collect such reimbursements the LESSOR shall have all the rights and remedies available under this Lease for a default of payment of rentals. The LESSOR shall give thirty (30) days notice to the LESSEE of LESSOR's intent to cure the defect, but no notice shall be required if in the LESSOR's reasonable opinion an emergency exists. The provisions of this paragraph shall survive the termination of this Lease.

11. Rights of Access. The LESSOR shall have the right to enter upon the leased premises during reasonable hours (except in an emergency) to examine it, to show it to prospective Lessees, to post a "to let" or other similar signs within six (6) months prior to the expiration of any term, and to inspect, repair and take care of any utilities thereon. The LESSOR reserves the right of access and the right to abate any nuisances or hazardous conditions on the premises at LESSEE's account and expense, including reasonable attorneys' fees, existing after ten (10) days notice has been given to abate such nuisance, hazard, provided no notice shall be required when in the LESSOR's reasonable opinion an emergency exists.

12. Surrender of Premises. At the expiration of any Lease term, or upon termination of this Lease as provided herein, the LESSEE shall peacefully and quietly surrender the leased property in as good a condition as it was at the beginning of the initial term, reasonable use and wear and damages by the elements excepted.

13. Design of Building and Improvements. The design of any additional buildings or external improvements to be placed on said leased property by LESSEE shall first be approved by LESSOR as to size, location, and materials used in the installation of the same. Furthermore, the height of any such building erected by LESSEE shall not exceed heights as set forth in FAA regulations.

14. Landscaping. Landscaping shall be installed and maintained by the LESSEE to conform to the requirements of the protective covenants of the Cedar City Industrial Park at LESSEE's expense.

15. Storage. Storage of any and all materials by LESSEE shall be made within the building installed by LESSEE on the premises and no equipment, trailers or other items, other than operable vehicles and aircraft, shall be stored outside said buildings. LESSEE shall maintain clean premises and shall not allow the accumulation of waste or garbage. At no time will LESSEE park any aircraft or vehicles on a non-paved surface.

#### **ARTICLE IV**

##### **GENERAL COVENANTS**

1. Conditions and Status of Premises. The LESSEE represents that LESSEE has examined the leased premises and accepts the premises in the condition in which they are, without representation or warranty, express or implied in fact or by law, by the LESSOR as to the



title, nature, condition or usability of the premises for the purposes set forth in the Lease. Lessor warrants that it has title to the property, and the capacity, both legal and actual, to enter into this Lease and to grant the estate free and clear of any other liens or claims.

2. Maintenance of Premises. The LESSEE shall keep and maintain at all times the entire premises in good repair and in a neat, orderly and sightly condition. The LESSEE shall not cause or permit to remain any litter, debris, or other items and materials of any kind whatsoever (including garbage, gasoline drums, whether with or without any value) to be stored or to remain upon the leased premises without the express permission of the LESSOR. The LESSEE shall agree to remove all materials including litter, when so requested by the LESSOR, and upon the failure of the LESSEE to do so within five (5) days after such notification, the LESSOR may so remove or restore the premises at LESSEE's expense.

3. Compliance with Law. LESSEE shall comply with, abide by and conform to all laws, governmental order, City Charter, ordinances, rules and regulations, including any future amendments thereto, controlling or in any manner affecting LESSEE's use or occupancy of the premises, provided LESSOR shall indemnify and hold LESSEE harmless from damages resulting from hazardous materials not introduced by LESSEE.

4. Inspection. The LESSEE shall permit the LESSOR, or LESSOR's authorized agents and employees, to enter upon the premises at any reasonable appointed time for the purpose of inspecting condition of the premises or the use thereof.

5. Taxes and Assessments. The LESSEE, in addition to the rentals provided for herein, shall pay when due (and before delinquency) all taxes, assessments and charges upon the leased premises, and upon buildings, improvements and property thereon, which are assessed or charged

at any time during the term, including all required Cedar City business licenses. The LESSEE shall have the right at all times to protest any assessments of taxes or other assessments or charges, but the LESSOR may require the LESSEE to deposit with the LESSOR any sums in dispute to insure payment in the event that any protest is unsuccessful. This paragraph expressly excludes mechanic's and materialman's liens covered under Article IV-14.

6. Utilities. The LESSEE shall pay and be responsible for all charges for gas, electricity, water, light, heat, power, sewer and other utility services used in or about or supplied to the leased premises.

7. Liability. The LESSOR shall not be liable for injury or damage to persons or property occurring within or upon the leased premises, unless caused by or resulting from the negligence of the LESSOR or any of the LESSOR's agents, servants or employees in the operation or maintenance of the leased premises. LESSEE covenants that LESSOR is to be free from liability and claim for damage by reason of any injury to any person or persons including LESSEE, its agents, or employees, or property of any kind, whosoever belonging, including LESSEE's, resulting from any cause or causes whatsoever, except for alleged claims based upon negligence or other misconduct by the LESSOR, while in, upon, or in any way connected with the premises during the term of this Lease, or any use or occupancy hereunder. LESSEE covenants to indemnify and hold harmless LESSOR from all liability, loss, costs (including LESSEE's or LESSOR's attorneys' fees) and obligations on account of or arising out of any such injuries or losses, however occurring, including any acts, negligent or otherwise, by the agents, independent contractors, employees, or servants of the LESSEE, and the LESSEE agrees to defend the LESSOR at the LESSEE's cost (including attorney's fees) against all such claims, actions or

suits, brought against the LESSOR.

8. Liability Insurance. LESSEE shall at all times during the term of this Lease maintain in force an insurance policy or policies which will name LESSOR and LESSEE as insured against all liability resulting from injury occurring to persons in or about the premises, the liability for such insurance to be not less than \$600,000.00, for any one person injured, \$2,000,000.00 for any one accident and \$200,000.00 for property damage. LESSEE shall provide a Certificate to LESSOR verifying said insurance. The original of such policy or policies shall remain in the possession of LESSEE, provided however; LESSOR shall have the right to receive from LESSEE, upon demand, a duplicate policy or policies of any such insurance.

9. Subsidence. The LESSOR shall not be responsible for any washout, subsidence, avulsion, settling or reliction neither to the premises, nor for any injury caused thereby to the property of the LESSEE or any person occupying the premises. The LESSOR shall not be obligated to replace, refill or improve any part of the leased premises during LESSEE's occupancy, in the event of such washouts, subsidence avulsion, settling or reliction.

10. Risk of Loss. No destruction or damage to any building or improvement on the leased premises by fire, rain, ice, snow, windstorm, earthquake, aircraft accident, or any other casualty or action of the elements shall entitle the LESSEE to surrender possession of the leased premises, to terminate this Lease, to violate any of its provisions, or to cause any rebate or abatement in rent when due or thereafter becoming due under the terms hereof, except that if 60% or more of LESSEE's building on the premises are damaged or destroyed through acts of God or acts beyond the control of LESSEE, the LESSEE may terminate this Lease upon 30 days written notice, provided LESSEE shall repair or renovate structures, or remove debris, whichever

is most economically feasible. If LESSEE elects to rebuild or remain on the premises, all obligations hereunder shall continue.

11. Repair and/or Rebuilding. Upon the destruction or damage to any building or structure by fire, rain, ice, snow, windstorm, earthquake, aircraft damage, or any other casualty or action of the elements, the LESSEE shall have the right to repair, restore or rebuild the building or structure, so long as construction commences within six (6) months and is complete within one (1) year after the date of such occurrence. LESSOR may extend the above deadlines at LESSOR's discretion. If LESSEE chooses to repair or rebuild, all obligations hereunder shall continue.

12. Condemnation.

(a) If the leased premises, or any part thereof, rendering the remainder unusable is taken by eminent domain, this Lease shall expire on the date when the leased property is taken by a declaration of taking, without prejudice to LESSEE's rights against condemnor, or on the date when the condemnor is granted possession of the premises and the rent shall be apportioned as of that date.

(b) The LESSEE shall be entitled to the award of the building structures and improvements placed upon the premises by the LESSEE whether existing at inception or subsequently erected, and the LESSOR shall be entitled to the award from the ground leased and for any improvements placed upon and benefitting the premises by the LESSOR or acquired by the LESSOR from the LESSEE or any other person.

(c) The LESSEE shall be entitled to relocation costs if provided by law.

13. Reservation of Rights of Way and Easements. The LESSOR reserves for the purpose of constructing and maintaining City utilities:

(a) The right of reasonable ingress and egress to, over and from the leased premises for these purposes; and

(b) Reasonable easements over, under and through the leased premises for these purposes.

14. Liens and Encumbrances. If at any time during said term, whether during the period of construction or reconstruction of buildings, or at any other times, any liens or encumbrances of mechanic, laborers or materialmen, or secured transactions (not consented to by the LESSOR), shall be filed against the premises or any part thereof, the LESSEE shall, at its own expense procure the liens and/or encumbrances to be discharged by payment, bonding or otherwise as provided by law, and as a condition precedent to this Lease, discharge the liens or encumbrances within thirty (30) days after receiving written notice from the LESSOR that the same is filed or recorded, provided however, LESSEE shall have the right to contest the validity or amount of any such lien or claimed lien. In the event of such contest, LESSEE shall give to LESSOR reasonable security as may be demanded by LESSOR to insure payment thereof and prevent any sale, foreclosure or forfeiture of the premises or improvements by reason of such non-payment. Such security need not exceed on and one-half times the amount of such lien or claimed lien. The LESSEE, upon reasonable notice and request in writing from the LESSOR, shall also defend for the LESSOR, at the LESSEE's sole cost and expense, any action, suit or proceeding which may be brought on or for the enforcement of any lien or encumbrance and shall pay any damages and satisfy and discharge any judgment entered in such action, suit or proceeding and save harmless the LESSOR from any liability claim or damages resulting therefrom. In the event of default by the LESSEE procuring the discharge as aforesaid of any such lien, or security transaction, the LESSOR may, at the LESSOR's option, terminate this lease, or without further notice procure the discharge thereof by bonding or payment or otherwise, and all cost and

expenses to which the LESSOR may be put in obtaining such discharge shall be paid by the LESSEE to the LESSOR as additional rent.

15. Assignment or Sub-leasing.

(a) The LESSEE shall not assign or sub-let any interest in the premises, without the prior written consent of the LESSOR; said consent shall not be unreasonably withheld. Any violation of this covenant shall be subject to the provisions of Article III, Default and Enforcement, of this agreement. The LESSEE covenants not to assign or sub-lease its interest in the premises unless the proposed assignee or sublessee agrees in writing to assume and perform all the terms, conditions and covenants of the Lease imposed by the LESSOR. The LESSEE shall furnish the LESSOR with a copy of any proposed assignment or sub-lease for approval prior to any assignment or sub-lease, and shall further furnish a copy to the LESSOR of any executed assignment or sub-lease.

(b) No assignment, sub-lease, or occupancy permitted under sub-paragraph (a) of this paragraph shall relieve LESSEE of any of LESSEE's obligations herein, and LESSEE agrees to hold the LESSOR harmless from loss because of the non-payment of rentals, taxes or assessments or other charges incurred on the premises by any assignee, sub-lease or occupant.

(c) Prior written consent by the LESSOR shall not be unreasonably withheld. Consent to the sub-lease or assignment may only be withheld if the proposed sub-lease or assignment, or the use represented thereby, is contrary to the provisions of this Lease, or violates FAA criteria for airport related property.

16. Mortgages and Encumbrances.

(a) The LESSEE covenants that it shall not mortgage or otherwise encumber this Lease (including LESSEE's leasehold estate in the installation of improvements thereon) without the

prior consent of the City in writing. Any violation of this covenant shall be subject to provisions of Article III, Default and Enforcement, of this agreement. In no event shall there be at any time more than one existing mortgage of this lease.

(b) The LESSOR's consent to the mortgage or encumbrance shall not be unreasonably withheld. The LESSEE shall furnish the LESSOR with a copy of any security transactions mortgaging or encumbering the premises for the LESSOR's approval prior to any mortgaging or encumbering of the premises, and shall further furnish a copy to the LESSOR of any such executed security transactions.

17. Quiet Enjoyment. Conditioned upon LESSEE's paying the rent herein provided and performing and fulfilling all covenants, agreements, conditions and provisions of this Lease herein to be kept, observed and performed by LESSEE, LESSEE shall have and may at all times during the term hereby granted peaceably and quietly hold, have and enjoy the leased premises.

18. Buildings and Improvements. At the conclusion of this Lease, any building, fixtures, and improvements then existing on the premises shall belong to LESSOR and all personal property shall belong to LESSEE. LESSEE may, however, remove any building and restore the property to its original condition.

19. Holdover. In the event the LESSEE shall hold over after the termination of this Lease for any cause whatsoever, such holding over shall be deemed a tenancy from month to month only, at the same rental per month and upon the same terms, conditions and covenants as set forth herein. Such holding over period shall include any time employed by the LESSEE to remove any buildings, structures or improvements permitted by this Lease.

20. Modification. The Lease shall not be modified, altered or changed in any way whatsoever unless in writing and signed by both parties hereto.

21. Notice.

(a) Any notice under this Lease shall be in writing and shall be sent registered or certified mail to the last known address of the parties to whom the notice is to be given, as designated by such party in writing. The LESSOR hereby designates its address as: 10 North Main, Cedar City, Utah 84720.

(b) Any notice shall be deemed to duly govern only if mailed in a postpaid envelope addressed as provided in sub-paragraph

(c) If either party admits, either in writing or under oath, the receipt of notice, evidence of service in accordance herewith shall not be necessary.

(d) Any notice, demand, request or other communication required to be in writing shall be deemed to have been given at the time it is duly deposited and registered in any United States Post Office. This provision shall not apply to any payments of rentals or monies required under this Lease.

22. LESSEE Independent Contractor. LESSEE is and shall be an independent contractor, and shall be in no manner whatsoever the agent or servant of the LESSOR. The LESSEE is responsible to all parties for all of its acts or omissions, and the LESSOR shall be in no way responsible therefore.

23. Jurisdiction. It is agreed that any civil action concerning this Lease shall be commenced in a court of competent jurisdiction in Iron County, Utah.

24. Time is of the Essence. It is agreed and understood by the parties that time is of the essence as to each and every provision, condition, covenant or other term of this Lease.

25. Captions. The captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Lease, nor the intent of any provisions



thereof.

26. Successors in Interest. All of the terms, covenants, conditions and agreements herein contained shall in every case be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto, and all terms, covenants, conditions and agreements contained herein shall be deemed to be not only for the benefit of and enforceable against the LESSEE, but also against the heirs, legal representatives, successors and assigns of the LESSEE, and that the LESSEE shall not be discharged from any liability by any assignment or sub-lease of the premises, or any part thereof, or of this Lease, notwithstanding the fact that the LESSOR has consented to such sub-lease or assignee as a Lessee hereunder.

27. Recordation of Lease. The LESSOR intends to record this lease with the Iron County Recorder.

28. Invalid Provisions. In the event that any covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of such covenant, condition or provision does not materially prejudice either LESSOR or LESSEE in its respective rights and obligations contained in the valid covenants, conditions or provisions of this Lease.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year set forth above.

LESSOR:

---

Maile Wilson, MAYOR  
Cedar City Corporation

ATTEST:

RENON SAVAGE, CITY RECORDER

STATE OF UTAH     )  
                              : Ss.  
COUNTY OF IRON    )

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, a Notary Public, in and for the State of Utah, duly commissioned and sworn as such, personally appeared Maile Wilson, known to me to be the Mayor of Cedar City Corporation, and Renon Savage known to me to be the City Recorder of Cedar City Corporation, and acknowledged to me that he the said Maile Wilson and she the said Renon Savage executed the foregoing instrument as a free and voluntary act and deed of said corporation, for the uses and purposes therein, and on oath state that they were authorized to execute said instrument, and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove written.

---

NOTARY PUBLIC

LESSEE:

\_\_\_\_\_  
Southern Skies Aviation, Inc.  
Clayton Cheney

STATE OF UTAH)

: Ss.

COUNTY OF IRON)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before  
me \_\_\_\_\_ who duly acknowledged to me that he/she/they  
signed the above and foregoing document.

\_\_\_\_\_  
NOTARY PUBLIC

LESSEE:

\_\_\_\_\_  
Paradigm Developers  
Clayton Cheney

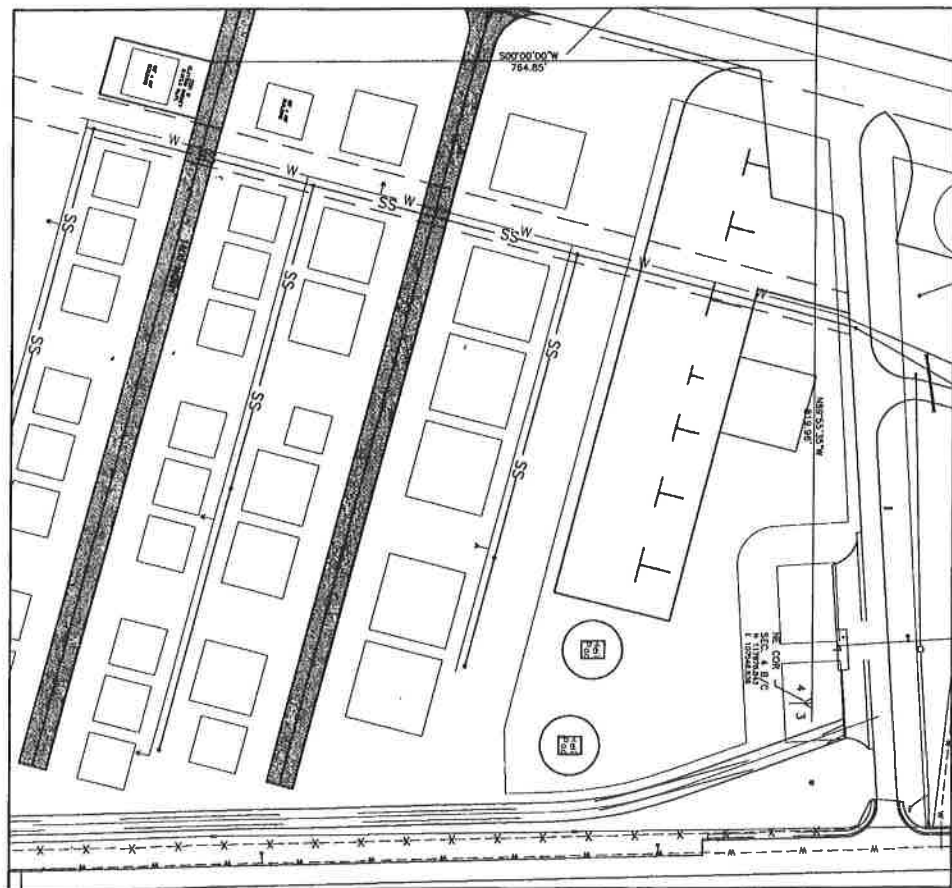
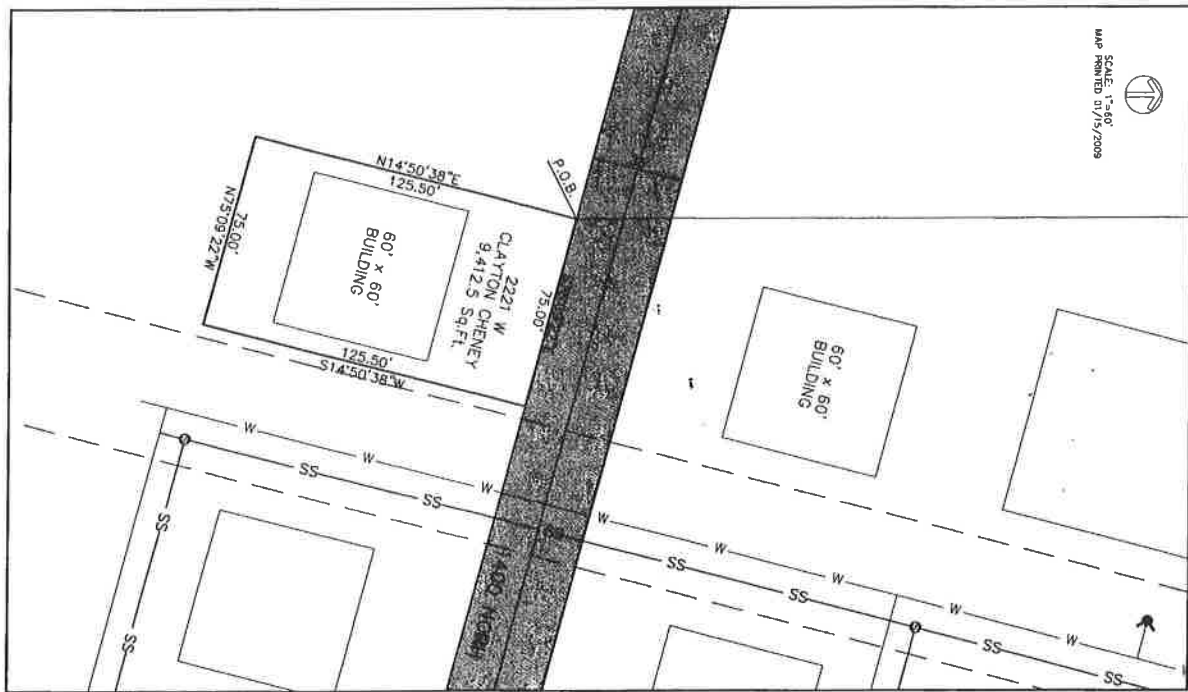
STATE OF UTAH)

: Ss.

COUNTY OF IRON)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before  
me \_\_\_\_\_ who duly acknowledged to me that he/she/they  
signed the above and foregoing document.

\_\_\_\_\_  
NOTARY PUBLIC



CLAYTON CHENEY  
RAW LAND LEASE

Exhibit A



**CEDAR CITY COUNCIL  
AGENDA ITEM #5**

**DECISION PAPER**

**TO:** Mayor and City Council

**FROM:** Russ Volk

**DATE:** January 22, 2014

**SUBJECT:** State of Utah Division of Aeronautics Pavement Maintenance Grant

**RECOMMENDATION:** Consider the grant application

**DISCUSSION:** The Utah Division of Aeronautics is providing the Cedar City Regional Airport a pavement maintenance grant for the purpose of rehabilitating a portion of Runway 8/26.

The grant amount is for \$400,000 of which UDOT is providing \$360,000. The cities cost share is 10 percent of the grant amount, or \$40,000.

During the budget process, the airport budget contained \$40,000 to cover the cities cost share of the grant.

Request the City Council consider acceptance of the grant and allow the Mayor to sign the grant application.





**UTAH DEPARTMENT OF TRANSPORTATION**

**AERONAUTICAL OPERATIONS DIVISION**

**PROJECT APPLICATION AND GRANT AGREEMENT  
FOR STATE AID FOR DEVELOPMENT OF PUBLIC AIRPORTS**

**Part 1 - Project Information**

**Cedar City Corporation** (hereinafter called the "Sponsor") hereby makes application to the Utah Department of Transportation (hereinafter called the "State") for a grant of state funds pursuant to Title 72, Chapter 10, Aeronautics Act, for the purpose of aiding in financing an improvement project (hereinafter called the "project") for the development of the **Cedar City Regional Airport**, (hereinafter called the "Airport") located in **Cedar City, Iron County**.

It is proposed that the Project consists of the following described airport improvements or development:

**Rehab Crosswind Runway 8/26**

as shown on the attached map accompanied by a detailed engineering cost estimate showing each item in the Project by description, quantity, unit cost, total cost, engineering and contingencies. [The map will show (1) the boundaries of the Airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the Sponsor for airport purposes, and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars, and roads), including all proposed extensions and reductions of existing airport facilities; (3) the location of all existing and proposed non-aviation areas and of all existing and proposed improvements thereon including the access road; and (4) airport vicinity zoning.] It is understood that the State will approve in writing the project plans and specifications before start of construction.

The estimated total project is \$ 400,000. The requested State share of the project is \$ 360,000, which is 90%.

Other governmental agencies granting money to the project are \_\_\_\_\_  
\_\_\_\_\_.

The Project engineer is intended to be \_\_\_\_\_  
The FAA Project No. is (N/A) (if applicable)

### **Part II - Representations**

The Sponsor hereby represents and certifies as follows:

1. Legal Authority - The Sponsor has the legal power and authority to :
  - (1) do all things necessary in order to undertake and carry out the Project in conformity with applicable statutes;
  - (2) accept, receive, and disburse grants of funds from the State in aid of the Project;
  - (3) carry out all of the provisions of Parts III and IV of this document.
2. Funds - The Sponsor now has \$ 40,000 (10%) available for use in defraying its share of the Project.

### **Part III – Sponsor's Assurances**

In consideration for grant monies made available to the airport, the Sponsor hereby covenants and agrees with the State, as follows:

1. The Sponsor will operate the Airport as such for the use and benefit of the public throughout the useful life of the facilities developed under this Project, but in any event for at least ten (10) years from the date hereof. The furtherance of this covenant, (but without limiting its general applicability and effect) the Sponsor specifically agrees that it will keep the airport open to all types, kinds, and classes of aeronautical use on fair and reasonable terms without discrimination between such types, kinds, and classes; provided, that the Sponsor may establish such fair, equal, and not unjustly discriminatory conditions to be met by all users of the Airport; and provided further, that the Sponsor may prohibit or limit any given type, kind or class of aeronautical use of the Airport if such action is necessary - (a) For safe and efficient use of the Airport; (b) To keep operation activities within acceptable noise levels; To serve the civil aviation needs of the public.

2. The Sponsor covenants and agrees that, unless authorized by the State, it will not either directly or indirectly, grant or permit any person, firm, or corporation the exclusive right at the Airport or at any other Airport now or hereafter owned or controlled by it, to conduct any aeronautical activities, including, but not limited to, charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity.

3. The Sponsor agrees that it will operate the Airport for the use and benefit of the public, on fair and reasonable terms, and without unjust discrimination. In furtherance of this covenant (but without limiting its general applicability and effect), the Sponsor specifically covenants and agrees:

a. That in its operation and the operation of all facilities on the airport, neither it nor any person or organization occupying space of facilities thereon will discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of any of the facilities provided for the public on the Airport.

b. That in any agreement, contract, lease, or other arrangement under which a right or privilege at the Airport is granted to any person, firm, or corporation to render to the public any service (including the furnishing or sale of any aeronautical parts, materials, or supplies) essential to the operation of aircraft at the Airport, the Sponsor will insert and enforce provisions requiring the contractor:

(1) To furnish said service on a fair, equal, and not unjustly discriminatory basis to all users thereof, and

(2) To charge fair, reasonable, and not unjustly discriminatory prices for each unit or service; Provided, that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. That it will not exercise or grant any right or privilege which would operate to prevent any person, firm, or corporation operating aircraft on the Airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance and repair) that it may choose to perform.

d. In the event the Sponsor itself exercises any of the rights and privileges referred to in subsection b, the services involved will be provided on the same conditions as would apply to the furnishing of such services by contractors or concessionaires of the Sponsor under the provisions of such subsection b.

4. Nothing contained herein shall be construed to prohibit the granting or exercise of an exclusive right for the furnishing of non-aviation products and supplies or any service of a non-aeronautical nature or to obligate the Sponsor to furnish any particular non-aeronautical service at the Airport.

5. The Sponsor will operate and maintain in a safe and serviceable condition the Airport and all facilities thereon and connected therewith which are necessary to serve the aeronautical users of the Airport other than facilities owned or controlled by the United States, or the State, and will not permit any activity or uses thereon which would interfere with its use for airport purposes; Provided that nothing contained herein shall be construed to require that the Airport be operated for aeronautical uses during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance; and provided further, that nothing herein shall be construed as requiring the maintenance, repair, restoration or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the Sponsor.

6. Insofar as it is within its power and reasonably possible, the Sponsor will, either by the acquisition and retention of easements or other interests in or rights for the use of land or airspace or by the adoption and enforcement of zoning regulations, prevent the construction, erection, alteration, or growth of any structure, tree, or other object in the approach areas of the runways of the Airport, which would constitute an obstruction to air navigation according to the criteria or standards prescribed in Part 77 of the Federal Aviation Regulations. In addition, the Sponsor will not erect or permit the erection of any permanent structure or facility which would interfere materially with the use, operation, or future development of the Airport, in any portion of a runway approach area in which the Sponsor has acquired, or may hereafter acquire, property interests permitting it to so control the use made of the surface of the land. In addition the Sponsor will clear said area or areas of any existing structure or any natural growth that constitutes an obstruction to airspace within the standards established by said Part 77 unless exceptions to or deviations from the aforementioned obligations have been granted to it in writing by the State.

7. The Sponsor will furnish the State with such annual or special airport financial and operational reports as may be reasonably requested. Such reports may be submitted on forms furnished by the State, or may be submitted in such manner as the Sponsor elects as long as the essential data is furnished. The Airport and all Airport records and documents affecting the Airport, including deeds, leases, operation and use agreements, regulations, and other instruments will be made available for inspection and audit by the State, or his duly authorized representative upon reasonable request. The sponsor will furnish to the State a true copy of any such documents.

8. The Sponsor will not enter into any transaction which would operate to deprive it of any of the rights and powers necessary to perform any or all of the covenants made herein, unless by such transaction the obligation to perform all such covenants is assumed by another public agency found by the State to be eligible to assume such obligations and having the power, authority, and financial resources to carry out all such obligations. If an arrangement is made for management or operation of the Airport by any agency or person other than the Sponsor or an employee of the Sponsor, the Sponsor will reserve sufficient rights and authority to insure that the Airport will be operated and maintained in accordance with these covenants.

9. The Sponsor will keep up to date, by amendment, the attached map of the Airport showing:

(1) The boundaries of the Airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the Sponsor for airport purposes, and proposed additions thereto;

(2) The location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars, and roads), including all proposed extensions and reductions of existing airport facilities; and

(3) The location of all existing and proposed non-aviation areas and of all existing improvements thereon, including the access road, said attached map, and each amendment, revision, or modification thereof, shall be subject to the approval of the State which approval shall be evidenced by the signature of a duly authorized representative of the State on the face thereof. The Sponsor will not make or permit the making of any changes or alterations in the Airport or any of its facilities that might adversely affect the safety, utility, or efficiency of the Airport.

(4) Airport vicinity zoning.

10. Insofar as is within its power and to the extent reasonable, the Sponsor will take action to restrict the use of land adjacent to or in the immediate vicinity of the Airport to activities and purposes compatible with normal airport operations including landing and takeoff of aircraft.

11. The Sponsor will not dispose of, or abandon in any manner, any portion of the Airport shown on the approved map without the written consent of the State.

12. It is understood and agreed that as to the land acquired or to be acquired for future development of the airport, the Sponsor will construct and complete thereon a useful and usable facility consistent with the State Airport System Plan not later than the time of forecasted need; and if the land so acquired or any part thereof, is not used within the forecast period for the purpose for which it was acquired, the Sponsor will refund the State share of acquisition cost or fair market value of the land, whichever is greater, plus the State share of net revenue, at the time of sale or expiration of the period stated in this agreement. It is further understood and agreed that the Sponsor will deposit all net revenues derived from the interim use of the land into a special fund to be used exclusively for approved items of airport development, but in no case may the State share of such funds be used to match State aid funds in future grants. It is still further understood and agreed that the Sponsor will not dispose of the land by sale, lease, or otherwise without the prior consent and approval of the State.

13. The Sponsor will maintain, at its own expense, the following aeronautical use items and activities:

(1) A standard, mounted windsock for observation of wind direction and velocity from the ground and while airborne together with a standard segmented circle, both in good repair.

(2) Enforcement of zoning in the vicinity of airports to minimize environmental problems associated with aeronautical uses.

(3) A current license issued by the State designating the Airport for public use.

(4) Runway or boundary lights in good repair and on from dusk to dawn of each calendar day.

(5) The runway, taxiways, and apron in a state of good repair which would include annual crack filling and mowing of vegetation at least 15 feet outside of hard surfaced areas as necessary to maintain a weed height of not more than 12 inches.

(6) The boundary fence, when in place, in a state of good repair.

(7) The main runway, associated taxiway and apron to be cleared of snow as soon as practical after a snowstorm and the airport to remain open for use during these months.

14. It is understood that the State will participate in the amount of grant monies herein mentioned in the engineering estimate or in the herein mentioned per cent share of the actual project cost, whichever is least.

15. In the event the State does not grant monies under this application, the covenants herein

mentioned shall not become effective.

16. Sponsor shall have no authorization to bind the State of Utah or the Utah Department of Transportation, or its Aeronautical Operations Division to any agreement, settlement, liability or understanding whatsoever, nor to perform any acts as agent for the State of Utah, except as herein expressly set forth.

17. Sponsor hereby agrees to indemnify and save harmless the State of Utah, Utah Department of Transportation, and Aeronautical Operations Division, and their officers, agents, and employees from and against any and all loss, damages, injury, and liability, and any claims therefore, including claims for personal injury or death, damages to personal property and liens of workmen and materialmen, howsoever caused, resulting directly or indirectly from the performance of this agreement or from the use or operation of the airport improvements and facilities being purchased, constructed or otherwise developed under this agreement.

**Part IV - Project Agreement and Acceptance**

If the Project or any portion thereof is approved by the State, and State aid for such approved Project is accepted by the Sponsor, it is understood and agreed that all airport development included in such Project will be accomplished in accordance with the plans and specifications for such development, as approved by the State, and the herein assurances with respect to the Project and the Airport.

IN WITNESS WHEREOF, The parties hereto do hereby ratify and adopt all statements, representatives, warranties, covenants, and agreements contained or referenced herein and do hereby cause this document to be executed in accordance with the terms and conditions here of.

Executed for the Sponsor this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
(Name of Sponsor)

By \_\_\_\_\_

Title \_\_\_\_\_

Attest \_\_\_\_\_

Recorder



## CERTIFICATE OF SPONSOR'S ATTORNEY

I, \_\_\_\_\_, acting as Attorney for \_\_\_\_\_  
(herein referred to as the "Sponsor") do hereby certify:

That I have examined the foregoing document and the proceedings taken by said Sponsor relating thereto, and find that the Acceptance thereof by said Sponsor has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the State of Utah, and further that, in my opinion, said Agreement constitutes a legal and bind obligation of the Sponsor in accordance with the terms thereof.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Title \_\_\_\_\_

AERONAUTICAL OPERATIONS DIVISION

\_\_\_\_\_  
Director

APPROVED:

\_\_\_\_\_  
UDOT Legal Counsel

\_\_\_\_\_  
Finance

SCIP PROJECT SCOPE		
AIRPORT:	Cedar City Regional (CDC)	FUNDING YEAR FY2014
PROJECT TITLE:	Rehab Crosswind Runway 8/26 and Taxiway A1	
<b>Project Funding:</b>		
State Grant Amount:	\$ 360,000	
Sponsor Match:	\$ 40,000	
Total amount Available:	\$ 400,000	
<b>Project Scope/Description:</b>		
<p>This project will rehabilitate the portion of Runway 8/26 between Runway 2/20 and the east side of Taxiway A. These pavements were constructed in 1971. The project will be divided into two phases.</p> <p>Phase I will rehabilitate the pavements between Runway 2/20 and Taxiway A1 to include a portion of Taxiway A1. This will be completed in conjunction with AIP-28 which is to reconstruct/relocate the helipad. This area is listed as R5 and T6 on the FAA Pavement Strength Survey and is listed with design weight of 35 SWG and 45 DWG for Runway 8/26 and 60 SWG, 75 DWG and 120 DT for A1. The new runway design weights will be 60 SWG, 75 DWG, and 100 DT.</p> <p>Phase II of the project will be to rehabilitate the Runway <del>2/820</del><sup>8/26</sup> pavements from Taxiway A1 to the east side of Taxiway A. This area is listed as R5 and T6 on the FAA Pavement Strength Survey and is listed with a design weight of 35 SWG and 45 DWG for Runway 8/26 and 60 SWG, 75 DWG and 120 DT for A1. These pavements will be rebuilt to the same strength as Phase I.</p> <p>Soil samples have been taken. If the samples show the underlying materials are adequate for the pavement design, the project will involve pulverizing the existing asphalt, regrading and recompacting the base course and placing 4" of asphalt with RAP to meet the design requirements.</p>		

SCIP PROJECT SCHEDULE		
AIRPORT:	Cedar City Regional (CDC)	FUNDING YEAR 2014
PROJECT TITLE:	Rehab Crosswind Runway 8/26	
<b>SCHEDULE</b>		
<b>MILESTONE</b>	<b>DATE</b>	
Design Kick-off Meeting	October 29, 2013	
Plans, Specifications and Estimate Review	March 14, 2014	
Project Advertisement	April 1, 2014	
Bid opening	April 24, 2014	
Notice to Proceed	June 1, 2014	
Project Completion	July 30, 2014	

SCIP PROJECT SCOPING ESTIMATE						
AIRPORT:	Cedar City Regional (CDC)		STATE GRANT AMOUNT:	\$360,000	FUNDING YEAR	2014
PROJECT TITLE:	Rehab Crosswind Runway 8/26					
SCOPING ESTIMATE						
ITEM			COST			
Engineering and Administration Fees <sup>2</sup>			\$ 23,000.00			
Construction Inspection Fees <sup>2</sup>			32,700.00			
Construction Costs <sup>3</sup>			344,300.00			
Total			\$400,000.00			

<sup>1</sup> If scope differs from the project description, a new project description will be assigned along with a new SCIP rating.

<sup>2</sup> Negotiated Engineering, Administration and Construction Inspection. Documentation must be provided if requested. All fees must not exceed 16.2% of the total project cost.

<sup>3</sup> Attach Scoping Estimate with major work items and associated unit costs.

**RECOMMENDED FOR APPROVAL:**

 1/6/2014  
Division of Aeronautics Date

**APPROVED BY THE UDOT TRANSPORTATION COMMISSION ON:**

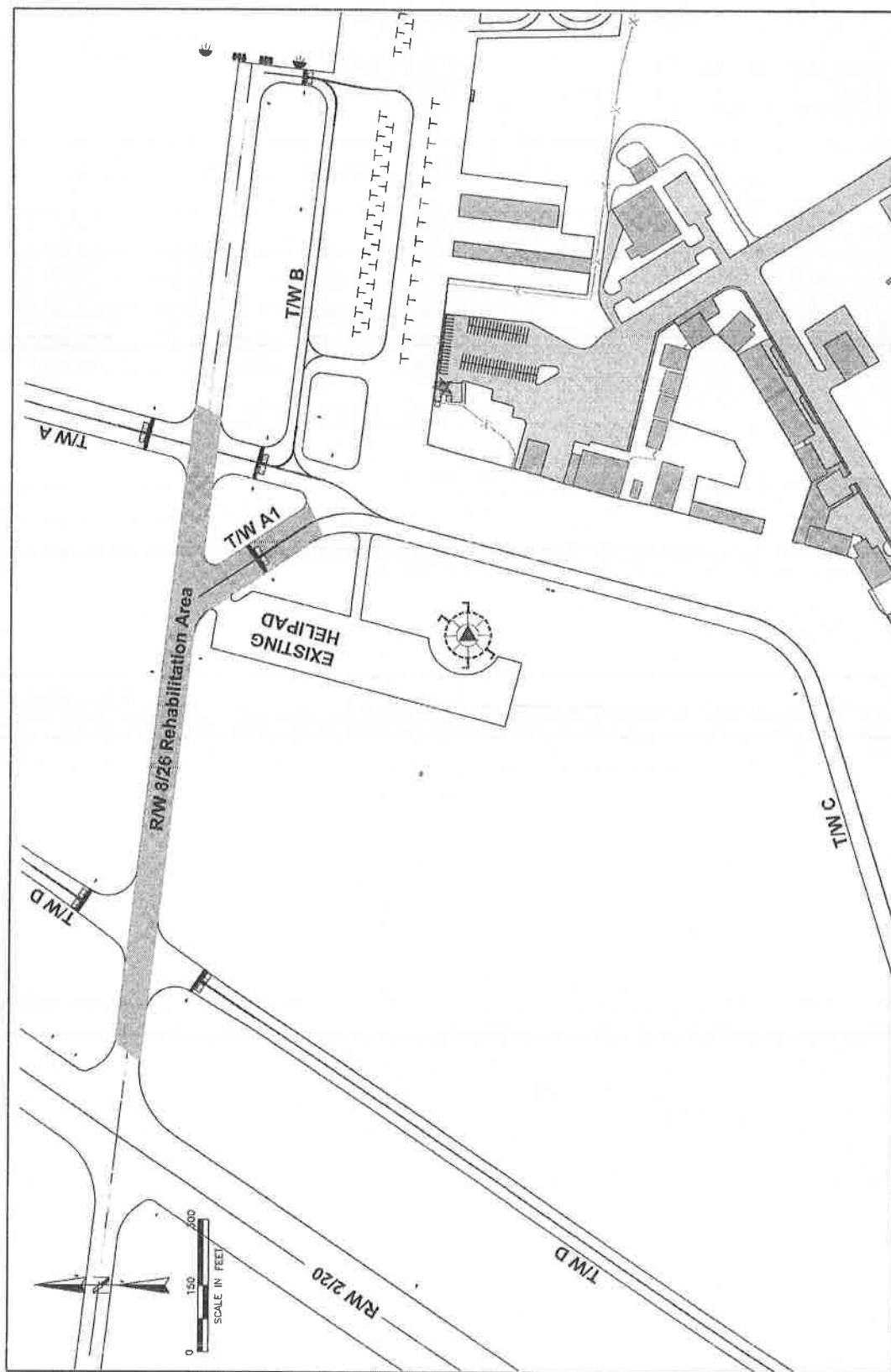
7/19/2013  
Date

## ENGINEER'S PRELIMINARY ESTIMATE

PROJECT: CEDAR CITY REGIONAL AIRPORT  
REHABILITATE RW 8-26  
OWNER: CEDAR CITY CORPORATION

PROJECT NO.:  
DATE: NOVEMBER 2013

[illegible]



# Cedar City Regional Airport RUNWAY 8/26 REHABILITATION

CREAMER & NOBLE  
ENGINEERS  
ST. GEORGE, UTAH

FIGURE No.: 1

**CEDAR CITY COUNCIL  
AGENDA ITEM #6**

**DECISION PAPER**

**TO:** Mayor and City Council

**FROM:** Russ Volk

**DATE:** January 22, 2014

**SUBJECT:** Contract between Cedar City Corp and Creamer & Noble Inc.  
(FAA Project)

**RECOMMENDATION:** Consider contract to Creamer & Noble Engineers and authorize Mayor to sign contract

**DISCUSSION:** The Federal Aviation Administration is providing a grant for Airport Improvement Projects to accomplish asphalt replacement of the airport helipad, installation of an airfield lighting emergency backup generator, installation of new perimeter fence around emergency generator and moving the segmented circle and windsock.

Per FAA guidelines, Creamer & Noble, Inc, the airport consultation, will be providing engineering services for this project. The FAA has approved the planned fee for the engineering services.

The attached contract is presented to the City Council for consideration of the services which will be accomplished by Creamer & Noble.

Scope of services includes:

- Provide project layout maps
- Prepare cost estimates
- Complete detailed design and drawings, specifications
- Complete contract documents of work items
- Make final cost estimate
- Provide information to bidders
- Prepare addenda, if necessary
- Attend bid openings and tabulate bid proposals
- Make recommendation to city for awarding of contracts

Conduct pre-construction conference  
Furnish engineering oversight and resident observation  
Review and recommend approval of estimates for progress  
Review and recommend approval for final payments  
Make final inspection of all construction efforts

Request the City Council consider acceptance of the contract, and  
allow the Mayor to sign the contract.



**CONTRACT FOR ENGINEERING SERVICES  
BETWEEN CEDAR CITY CORPORATION AND  
CREAMER & NOBLE, INC.  
A.I.P. NO. 3-49-0005-28**

THIS AGREEMENT is made and executed this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between Cedar City Corporation, hereinafter referred to as the OWNER, and Creamer & Noble, Inc., hereinafter referred to as the ENGINEER.

**SECTION A – GENERAL**

WHEREAS, the OWNER intends to construct an Airport Improvement Project at the Cedar City Regional Airport, Cedar City, Iron County, State of Utah; and,

WHEREAS, the proposed project consists of the rehabilitation of the helipad, relocation of the segmented circle, installation of an emergency generator for airfield lighting, installation of security fencing around the electrical vault, and infield grading; and,

WHEREAS, the OWNER recognizes the ENGINEER as qualified and desires to contract with the ENGINEER to perform the design and construction engineering services for the project.

NOW THEREFORE, that for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed to the terms and conditions described herein.

**SECTION B – PRELIMINARY AND DESIGN ENGINEERING SERVICES**

The ENGINEER shall furnish preliminary and design engineering services as follows:

1. The ENGINEER shall assist in establishing project parameters for the A.I.P. project in conjunction with the Federal Aviation Administration (FAA) and the OWNER.
2. The ENGINEER will perform preliminary engineering investigations, provide project layout maps, and will prepare a number of preliminary cost estimates for alternative designs requested by FAA for the project.
3. The ENGINEER shall prepare the application for funding to be submitted to the Federal Aviation Administration.
4. The ENGINEER shall assist the OWNER in setting a Disadvantaged Business Enterprise (DBE) participation goal for the project.

5. The ENGINEER shall assist the OWNER in Title VI Equal Opportunity compliance.
6. The ENGINEER will prepare and submit to FAA a design report for all phases of work.
7. The ENGINEER shall complete the detailed design and detailed drawings, specifications, and contract documents of the work items and shall make a final cost estimate based on the final design.
8. The ENGINEER agrees to submit said plans and specifications to FAA and the OWNER for approval. Modifications as directed by FAA and approved by the OWNER shall be incorporated into the plans and specifications.
9. Prior to the advertisement for bids, the ENGINEER will provide not to exceed 5 copies of detailed drawings, specifications, and contract documents for use of the OWNER and the appropriate Federal, State, and Local agencies from whom approval of the project must be obtained. The cost of such drawings, specifications, and contract documents shall be included as a direct cost in the basic compensation paid to the ENGINEER.
10. The ENGINEER will furnish additional copies of the drawings, specifications, and contract documents as required by prospective bidders, material suppliers, and other interested parties, but may charge for such copies. Upon award of the contract, the ENGINEER will furnish to the OWNER five sets of the drawings, specifications, and contract documents for execution. The costs of these sets shall also be included as a direct cost in the preliminary and design compensation paid to the ENGINEER.
11. The ENGINEER shall conduct a pre-bid site tour to familiarize prospective bidders with the project.

#### SECTION C – CONSTRUCTION OBSERVATION & ADMINISTRATION SERVICES

The ENGINEER shall provide project construction observation and construction administration services for the construction of the proposed facilities as follows:

1. The ENGINEER will be available to provide information to bidders and to prepare addenda, if necessary, to clarify the requirements of the work to be performed.
2. The ENGINEER will attend the bid opening and tabulate the bid proposals, make an analysis of the bids, and make the recommendations for awarding the contracts for construction.
3. The ENGINEER will, in conjunction with the OWNER, conduct the pre-construction conference with the selected contractor.
4. The ENGINEER will review necessary shop and working drawings, furnished by the Contractor, for conformance with the project design intent.

5. The ENGINEER will provide bench marks and identify work boundaries required by the Contractor to construct the project. All construction staking shall be the responsibility of the Contractor.

6. The ENGINEER will furnish engineering oversight, materials acceptance testing as defined by FAA and full time resident observation as necessary for the project. The ENGINEER will keep the OWNER informed of the progress and conformance of the work with the contract documents. Change Orders and Supplemental Agreements as recommended by the ENGINEER will be approved by the OWNER and the FAA.

7. The ENGINEER will provide contract administration services for the project and will also perform administrative services as pertaining to the Federal Aviation Administration and the Utah State Department of Transportation Aeronautics Division requirements.

8. The ENGINEER will review and recommend approval of estimates for progress and final payments to the Airport Manager for final approval. Approvals shall consider accuracy of payment requests as well as acceptability of work being paid for and progress of the work.

9. The ENGINEER will make a final engineering review of the construction and shall prepare and submit to the FAA a final engineering report.

10. The ENGINEER will provide the OWNER with one set of reproducible construction record drawings and a CD containing electronic copies of the same in .pdf and CAD format. Said drawings indicate the nature and location of work reported by the Contractor.

11. The ENGINEER will prepare notices and advertisements of final payments if required by State or Federal statutes.

12. The ENGINEER will be available to furnish engineering service and consultation necessary to correct all unforeseen project operating difficulties for a period of 1 year after the date of final review and acceptance of the facility by the OWNER. Such consultation and advice shall be furnished without additional charge except for travel and authorized subsistence costs.

#### SECTION D – COMPENSATION

The OWNER agrees to compensate the ENGINEER for engineering services as follows:

1. For preliminary and design engineering services specified in Section B, the ENGINEER shall be paid a lump sum of Sixty Thousand Seven Hundred Eighty and No/100 Dollars (\$60,780.00).

2. The OWNER agrees to compensate the ENGINEER for construction observation, compliance testing and administration services as outlined in Section C for the actual allowable cost plus a fixed fee. The actual cost includes direct salary cost, indirect costs, including payroll additives, and direct non-salary costs as outlined below:

(a) The direct salary cost is the actual salary expense excluding payroll additives for professional and technical personnel and principals for the time they are productively engaged in work necessary to fulfill the terms of this agreement. The direct salary costs are estimated to be approximately Twenty-Two Thousand Seven Hundred Fifty-Two and No/100 Dollars (\$22,752.00) as set forth in the attached consultant man-hour and cost estimate breakdown.

(b) The indirect labor costs including payroll additives are estimated as 180.0 percent of the direct salary cost. The additive and indirect cost rates are based on currently available accounting information, and shall be used for all progress payments. This percentage may be adjusted on the final payment in compliance with an audited rate over the project time period.

(c) The direct non-salary costs are those costs directly incurred in fulfilling the terms of this agreement, including but not limited to travel, reproduction, telephone, per-diem, equipment rental, supplies, and fees of outside consultants. The direct non-salary costs are estimated to be approximately Thirteen Thousand Nine Hundred Seven and No/100 Dollars (\$13,907.00) as set forth in the consultant man-hour and cost estimate summary in Appendix A.

(d) The fixed fee which represents the consultant's profit and allowable expenses shall be Eleven Thousand Six Hundred Forty-One and No/100 Dollars (\$11,641.00). The fixed payment will be prorated and paid regularly in proportion to the work performed as reflected by the periodic invoices, that is, on the same ratio as the invoice costs bear to the originally estimated total for consultant's actual costs which is the maximum account payable minus the fixed payment. Any portion of the fixed payment not previously paid in the periodic payments will be covered in the final payment.

(e) Without a change order approved prior to additional costs being incurred, the total cost of construction engineering, surveying, observation, monitoring of contractor provided materials testing and administration shall not exceed Eighty-Nine Three Hundred and No/100 Dollars (\$89,300.00).

3. In the event that the ENGINEER determines additional costs for design, construction observation and administration will be required, either as a result of changes requested by the OWNER and/or FAA, or increased contract time or unanticipated construction problems, he shall advise the OWNER and FAA and shall not incur such additional costs except upon prior written approval by the OWNER.

4. Payment for construction observation, materials acceptance testing, and administration services will be made on a monthly basis. The ENGINEER will render to the OWNER for such services an itemized bill, separate from any other billing, at the end of each month, the same to be due and payable by OWNER to the ENGINEER on or before the 20<sup>th</sup> day of the following month.

## SECTION E – GENERAL LIABILITY

The ENGINEER agrees to obtain and maintain, at the ENGINEER'S expense, such insurance as will protect him and the OWNER from claims under the Workman's Compensation Act, and the ENGINEER shall hold the OWNER harmless for all claims for bodily injury, death, or property damage which are attributable to the negligent performance of duties specified in this agreement as they apply to the ENGINEER. Likewise, the OWNER shall hold the ENGINEER harmless for the bodily injury, death, or property damage which may arise from the negligent performance by employees or agents of the OWNER or actions taken by said agents or employees without proper consultation with the ENGINEER. The ENGINEER shall also carry general liability insurance in the amount of \$2,000,000 per occurrence. Owner named as additionally insured.

## SECTION F – SPECIAL CONDITIONS / FEDERAL CONTRACT PROVISIONS

### **ACCESS TO RECORDS AND REPORTS**

The ENGINEER must maintain an acceptable cost accounting system. The ENGINEER agrees to provide the OWNER, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives' access to any books, documents, papers, and records of the ENGINEER which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The ENGINEER agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

### **BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the ENGINEER or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

### **GENERAL CIVIL RIGHTS PROVISIONS**

The ENGINEER agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the ENGINEERS from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.

In these cases the provision obligates the party or any transferee for the longer of the following periods:

(a) the period during which the property is used by the airport OWNER or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or

(b) the period during which the airport OWNER or any transferee retains ownership or possession of the property.

## **CIVIL RIGHTS – TITLE VI ASSURANCES.**

### **Title VI Solicitation Notice:**

The Cedar City Corporation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

### **Compliance with Nondiscrimination Requirements:**

During the performance of this contract, the ENGINEER, for itself, its assignees, and successors in interest (hereinafter referred to as the "ENGINEER") agrees as follows:

1. Compliance with Regulations: The ENGINEER (hereinafter includes consultants) will comply with the **Title VI List of Pertinent Nondiscrimination Statutes and Authorities**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. Non-discrimination: The ENGINEER, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The ENGINEER will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the ENGINEER for work to be performed under a subcontract, including procurements of materials, or leases of

equipment, each potential subcontractor or supplier will be notified by the ENGINEER of the ENGINEER's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. Information and Reports: The ENGINEER will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the OWNER or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a ENGINEER is in the exclusive possession of another who fails or refuses to furnish the information, the ENGINEER will so certify to the OWNER or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of a ENGINEER's noncompliance with the Non-discrimination provisions of this contract, the OWNER will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the ENGINEER under the contract until the ENGINEER complies; and/or
- b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The ENGINEER will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The ENGINEER will take action with respect to any subcontract or procurement as the OWNER or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the ENGINEER becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the ENGINEER may request the OWNER to enter into any litigation to protect the interests of the OWNER. In addition, the ENGINEER may request the United States to enter into the litigation to protect the interests of the United States.

#### **TITLE VI LIST OF PERTINENT NONDISCRIMINATION AUTHORITIES**

During the performance of this contract, the ENGINEER, for itself, its assignees, and successors in interest (hereinafter referred to as the "ENGINEER") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

2. 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);

3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;

5. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);

6. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

7. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and ENGINEERS, whether such programs or activities are Federally funded or not);

8. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

9. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



## **CLEAN AIR AND WATER POLLUTION CONTROL**

ENGINEERS and subcontractors agree:

1. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;

2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;

3. That, as a condition for the award of this contract, the ENGINEER or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;

4. To include or cause to be included in any construction contract or subcontract which exceeds \$ 100,000 the aforementioned criteria and requirements.

### **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

1. Overtime Requirements. No ENGINEER or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in paragraph (1) above, the ENGINEER and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such ENGINEER and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

3. Withholding for Unpaid Wages and Liquidated Damages. The Federal Aviation Administration or the OWNER shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any

monies payable on account of work performed by the ENGINEER or subcontractor under any such contract or any other Federal contract with the same prime ENGINEER, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime ENGINEER, such sums as may be determined to be necessary to satisfy any liabilities of such ENGINEER or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

4. Subcontractors. The ENGINEER or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime ENGINEER shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.

#### **CERTIFICATE REGARDING DEBARMENT AND SUSPENSION (BIDDER OR OFFEROR)**

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

#### **CERTIFICATION REGARDING DEBARMENT AND SUSPENSION (SUCCESSFUL BIDDER REGARDING LOWER TIER PARTICIPANTS)**

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>
2. Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the FAA later determines that a lower tier participant failed to tell a higher tier that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedy, including suspension and debarment.

#### **DISADVANTAGED BUSINESS ENTERPRISES**

1. Contract Assurance (§ 26.13). The ENGINEER or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The ENGINEER shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the ENGINEER to carry out

these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

2. Prompt Payment (§26.29). The prime ENGINEER agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 45 days from the receipt of each payment the prime ENGINEER receives from the OWNER. The prime ENGINEER agrees further to return retainage payments to each subcontractor within 45 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the OWNER. This clause applies to both DBE and non-DBE subcontractors.

#### **FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

The United States Department of Labor Wage and Hour Division can provide information regarding any specific clauses or assurances pertaining to the FLSA required to be inserted in solicitations, contracts or subcontracts.

#### **LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the bidder or offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

OSHA can provide information regarding any specific clauses or assurances pertaining to the Occupational Safety and Health Act of 1970 required to be inserted in solicitations, contracts or subcontracts.

### **RIGHTS TO INVENTIONS**

All rights to inventions and materials generated under this contract are subject to requirements and regulations issued by the FAA and the OWNER of the Federal grant under which this contract is executed.

### **TERMINATION OF CONTRACT**

1. The OWNER may, by written notice, terminate this contract in whole or in part at any time, either for the OWNER's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services must be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the OWNER.

2. If the termination is for the convenience of the OWNER, an equitable adjustment in the contract price will be made, but no amount will be allowed for anticipated profit on unperformed services.

3. If the termination is due to failure to fulfill the ENGINEER's obligations, the OWNER may take over the work and prosecute the same to completion by contract or otherwise. In such case, the ENGINEER is liable to the OWNER for any additional cost occasioned to the OWNER thereby.

4. If, after notice of termination for failure to fulfill contract obligations, it is determined that the ENGINEER had not so failed, the termination will be deemed to have been effected for the convenience of the OWNER. In such event, adjustment in the contract price will be made as provided in paragraph 2 of this clause.

5. The rights and remedies of the OWNER provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

6. Under paragraph 1 and 2 above, the termination party shall give the other party: (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) opportunity for consultation with the terminating party prior to termination.

7. Under paragraph 1 and 2 above, the termination party shall give the other party: (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) opportunity for consultation with the terminating party prior to termination.

## **TRADE RESTRICTION CLAUSE**

The ENGINEER or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

1. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
2. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
3. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a ENGINEER or subcontractor who is unable to certify to the above. If the ENGINEER knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the OWNER cancellation of the contract at no cost to the Government.

Further, the ENGINEER agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The ENGINEER may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The ENGINEER shall provide immediate written notice to the OWNER if the ENGINEER learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the ENGINEER if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the OWNER cancellation of the contract or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a ENGINEER is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

#### SECTION G – OTHER GENERAL & LOCAL PROVISIONS

1. This agreement, the documents attached hereto, and the work produced pursuant to this agreement constitute the entire agreement between the parties. As such this is an integrated agreement and shall be interpreted based on the language contained within the agreement. No prior written or oral representations shall be binding on either party. This agreement may be amended only by change order that is reduced to writing and is duly approved by the City Council and the designated officials for the consultant.

2. This agreement is subject to the laws of the State of Utah. In the case of court action jurisdiction is vested solely in the District courts for the State of Utah and venue is vested in the 5<sup>th</sup> Judicial District Court in and for Iron County.

3. The ENGINEER shall document and verify the citizenship or immigration status of each employee. The ENGINEER shall use one of the electronic verification systems defined in UCA §63-99a-103. In all contracts with subcontractors, at any level, the ENGINEER shall require each subcontractor, at any level, to use an electronic verification system, as defined in UCA §63-99a-103, to verify the citizenship or immigration status of all employees. All subcontractors at any level shall be required to certify to the ENGINEER, by affidavit, that the subcontractor has verified through an electronic verification system the employment status of each new employee.

4. Schedule: The following schedule shall be followed during the course of this project. Variations may occur dependent on construction contract completion and submittals.

January 30, 2014	Begin design
February 13, 2014	30% submittal to OWNER for Review
March 14, 2014	Design Complete, Plans & Specifications sent to OWNER, and FAA
April 1, 2014	Advertise for Bids
April 24, 2014	Bid Opening / Award of Contract
June 1, 2014	Begin Construction
July 30, 2014	Construction Complete
August 15, 2014	Final Inspection
September 19, 2014	Final Documents Submitted to OWNER, UDOT, & FAA

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in triplicate on the respective dates indicated below:

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Maile L. Wilson, MAYOR  
Cedar City Corporation

[SEAL]

ATTEST:

\_\_\_\_\_  
Renon Savage, CITY RECORDER

STATE OF UTAH     )  
                              : Ss.  
COUNTY OF IRON    )

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public, in and for the State of Utah, duly commissioned and sworn as such, personally appeared Maile L. Wilson, known to me to be the Mayor of Cedar City Corporation, and Renon Savage known to me to be the City Recorder of Cedar City Corporation, and acknowledged to me that she the said Maile L. Wilson and she the said Renon Savage executed the foregoing instrument as a free and voluntary act and deed of said corporation, for the uses and purposes therein, and on oath state that they were authorized to execute said instrument, and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove written.

\_\_\_\_\_  
NOTARY PUBLIC

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
K. Reed Noble, PRESIDENT  
Creamer & Noble, Inc.

[SEAL]

ATTEST:

\_\_\_\_\_  
D. James Snyder, VICE PRESIDENT

STATE OF UTAH                    )  
  : Ss.  
COUNTY OF WASHINGTON    )

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public, in and for the State of Utah, duly commissioned and sworn as such, personally appeared K. Reed Noble, known to me to be the President of Creamer & Noble, Inc., and D. James Snyder known to me to be the Vice President of Creamer & Noble, Inc., and acknowledged to me that he the said K. Reed Noble and he the said D. James Snyder executed the foregoing instrument as a free and voluntary act and deed of said corporation, for the uses and purposes therein, and on oath state that they were authorized to execute said instrument, and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove written.

\_\_\_\_\_  
James A. Jackson, NOTARY PUBLIC



## APPENDIX A

### CEDAR CITY REGIONAL AIRPORT A.I.P. NO. 3-49-0005-28 CONSTRUCTION MANAGEMENT LABOR & EXPENSE SUMMARY

#### Labor:

Principal	20.0 Hrs. @	\$62.50	\$ 1,250.00
Project Manager	60.0 Hrs. @	\$35.70	2,142.00
Project Engineer	80.0 Hrs. @	\$41.50	3,320.00
Resident Engineer	340.0 Hrs. @	\$40.00	13,600.00
Engineer Technician	40.0 Hrs. @	\$24.00	960.00
Secretary	80.0 Hrs. @	\$18.50	<u>1,480.00</u>

Total Labor Costs: \$22,752.00

#### Overhead:

\$22,752.00 x 1.8 \$41,000.00

#### Direct Expenses

Mileage	4,000 Miles @	\$0.56	\$ 2,240.00
Copies			1,000.00
Per Diem	5 Man/Days @	\$100.00	500.00
Materials Testing			6,000.00
Electrical Consultant			2,600.00
Other Direct Costs			<u>1,567.00</u>

Total Direct Expenses: \$13,907.00

Total Cost: \$77,659.00

#### Fixed Fee

\$11,641.00

**PROJECT TOTAL: \$89,300.00**



**CEDAR CITY COUNCIL**  
**AGENDA ITEM 7**  
**STAFF INFORMATION SHEET**

**DECISION PAPER**

TO: Mayor and City Council

FROM: Parks & Outdoor Facilities Division – Wally Davis

DATE: January 17, 2014

SUBJECT: Lease new Case 580 Super N Loader Backhoe

DISCUSSION: Consider Lease for the following:

One Year Lease of New Case 580 Super N Loader Backhoe

Low lease bid is \$3,626 for a Case Model 580 Super N Loader Backhoe from Century Equipment, Cedar City, Utah. See Attached Equipment Operating Lease Agreement.

\$5,000 budget was approved during the FY 2013-2014 Budget Year for this equipment.





# EQUIPMENT OPERATING LEASE AGREEMENT



FX00000131133361009A

64150 / 97969

<b>"Lessee(s)": Legal Name(s), Street Address, City, State, Zip Code</b> CEDAR CITY CORPORATION 10 N MAIN STREET CEDAR CITY, UT 84720-2635		<input type="checkbox"/> Individual/Sole Proprietorship If So, State of Principal Residence: _____ <input type="checkbox"/> General Partnership If So, State of Chief Executive Office: _____ <input checked="" type="checkbox"/> Corporation/LLC/LP If So, State in Which Formed: <u>UT</u> Organization ID No.: none		<b>"Lessor": (Dealer's Legal Name and Address)</b> CENTURY EQUIPMENT COMPANY, INC. 482 N Main PO Box 972 Cedar City, UT 84720	
County/Parish <u>IRON</u> Social Security No. _____ or Taxpayer ID No. <u>54-4011003</u>					

NEW* OR USED	"EQUIPMENT" (Make and Type)	MODEL	SERIAL NUMBER/PIN	METER READING	"MAX.ANN. USAGE"	"EXCESS USAGE RATE"
N	Case Tractor Loader / Bac	580SN	JJGN5BSNLD586333	N/A	300.0 Hrs	\$12.00 /Hr

The above Equipment is not for family, household or personal use and is being leased for use in the Lessee's business being: ☒ commercial/business use ☐ agricultural use.  
\* New Equipment is unused equipment, a rental unit or a demonstrator for which the manufacturer will supply all or a portion of a new equipment warranty; this Equipment may have been manufactured in a year prior to the year of lease.

The beginning date of this agreement (the "Agreement") is 01-15-2014 ("Beginning Date") and the termination date of the Agreement is 01-15-2015 ("Termination Date"). There shall be a security deposit of \$ N/A ("Security Deposit") and a purchase option price of \$ 76,474.00 ("Purchase Option Price").

**RENTAL PAYMENTS.** Advance Payment of \$ 260.50 followed by payments in accordance with the following schedule, plus applicable taxes:

NO. OF PAYMENTS	PERIOD OF PAYMENTS	AMOUNT OF EACH PAYMENT	BEGINNING MM/DD/YYYY
11	1 MONTHS	\$ 260.50	02/15/2014
		\$	
		\$	
		\$	
		\$	
		\$	
		\$	
		\$	
		\$	

NO. OF PAYMENTS	PERIOD OF PAYMENTS	AMOUNT OF EACH PAYMENT	BEGINNING MM/DD/YYYY
		\$	
		\$	
		\$	
		\$	
		\$	
		\$	
		\$	
		\$	

The "Obligations" shall mean Lessee's responsibility to pay the rental payments hereunder (the "Rental Payments") and perform any other existing or future obligations of Lessee to Lessor, Assignee as hereinafter defined or Assignee's affiliates hereunder, or under any other agreement.

**Location where Equipment will be located (if other than Lessee address):**

**NO WARRANTY.** The Equipment is sold AS IS except for any applicable manufacturer's express, written warranty. If any manufacturer's express warranty applies to the Equipment, such warranty is restricted to the manufacturer's written, limited warranty provided separately to Lessee. Lessor and manufacturer make no other representation or warranty, express or implied, and specifically exclude the implied warranties of merchantability and fitness for particular purpose.\* Neither Lessor nor manufacturer will be liable for incidental or consequential damages resulting from a breach of the express warranty or any implied warranty imposed by law.  
\*Some states do not allow these limitations and exclusions, and they shall not apply to the extent such limitations or exclusions are not allowed by applicable state law.

**LESSEE REPRESENTS THAT THE EQUIPMENT IS NOT BEING RENTED FOR FAMILY, HOUSEHOLD OR PERSONAL USE.**

Lessee acknowledges responsibility for paying all taxes related in any way to the Equipment. If Lessee is in possession of the Equipment on the personal property tax assessment date, Lessee is responsible for the entire year's assessment. Such amounts shall be included in the periodic invoices Lessee receives from Lessor. Lessee's failure to timely pay the entire invoice, including any portion related to taxes, shall be a default under the Lease.

## NOTICE TO THE LESSEE:

- DO NOT SIGN THIS BEFORE YOU READ THE WRITING ON THE ADDITIONAL PAGES, EVEN IF OTHERWISE ADVISED.
- DO NOT SIGN THIS IF IT CONTAINS ANY BLANK SPACES.
- YOU ARE ENTITLED TO AN EXACT COPY OF ANY AGREEMENT YOU SIGN.

**ADDITIONAL PROVISIONS CONCERNING RIGHTS AND DUTIES OF THE PARTIES ON THE ADDITIONAL PAGES OF THIS AGREEMENT ARE A PART OF THIS AGREEMENT.**

I agree to the foregoing. I have received and examined the Equipment, which is in good operating order and condition and is as described. I acknowledge receipt of a copy of this Agreement. I agree to lease the Equipment described above on the terms of this Agreement.

**X**  
Lessee/Lessee's Representative \_\_\_\_\_ Title (if applicable)  
01-15-2014 CEDAR CITY CORPORATION  
Date Print Name

**X**  
Lessee/Lessee's Representative \_\_\_\_\_ Title (if applicable)  
Date Print Name  
61009A Rev 01/12 Previous editions may not be used.

**X**  
Lessor's Representative \_\_\_\_\_  
01-15-2014 CENTURY EQUIPMENT COMPANY, INC.  
Date Print Name

LESSEE COPY



64150 / 97969 / CEDAR CITY CORPORATION

**RETURN** If Lessee does not exercise the purchase option (if any) provided in this Agreement at the Termination Date of this Agreement, Lessee shall (a) at its expense, deliver the Equipment to a location designated by Lessor, (b) pay all charges incurred by Lessor to repair any excessive wear and tear and for any hours in excess of the Maximum Annual Usage at the Excess Usage Rate, and (c) where permitted by law, pay an administrative service charge of \$400.00 per serial numbered/PIN unit.

**MAINTENANCE** Lessee will keep the Equipment in good condition, in operating order, and properly serviced, repaired and maintained. Lessee will make sure that the manufacturer's warranty remains valid. Lessee will pay all the costs of performing these obligations.

**LIENS** Lessee agrees to keep the Equipment free and clear of all liens, other than any lien Lessor may have on the Equipment. Lessee will not assign this Agreement or permit others to use the Equipment.

**LOCATION** The Equipment will be operated out of and, when not in use, will be kept only at the location specified on page 1 of this Agreement. Lessee will, when requested, advise Lessor of the exact location of the Equipment. Lessor may enter any premises under Lessee's control to inspect the Equipment and may remove it if in Lessor's opinion it is being abused or used beyond its capacity.

**LATE CHARGES/DEFAULT RATE/RETURNED CHECKS.** Lessee shall pay a late charge on each payment more than 10 days past due at the highest amount permitted by applicable law. Lessee shall pay interest on the unpaid balance after maturity (by acceleration or otherwise) at the highest rate permitted by applicable law. If a check is returned for any reason, Lessor or Assignee may charge Lessee a returned check processing fee as established by Lessor or Assignee from time to time not to exceed the maximum permitted under applicable law.

**RISK OF LOSS** All risk of loss, theft or damage to the Equipment is assumed by the Lessee, until the Equipment is returned to the Lessor. If the Equipment can be repaired for a cost less than its fair market value, Lessee will repair the Equipment at Lessee's sole expense, but damage to the Equipment shall not release Lessee from the Obligations. If the Equipment cannot be so repaired, or is lost, stolen or destroyed, Lessee will, at its option, either replace the Equipment at Lessee's sole expense with equivalent equipment of equal or greater value, as determined in the sole discretion of the Lessor or Assignee, or pay Lessor the Termination Value. Upon payment of the requisite Termination Value, Lessee shall be entitled to retain possession of the affected unit(s) of Equipment.

The "Termination Value" shall be an amount equal to (a) any past due, unpaid Rental Payments and any late charges related thereto, plus (b) all remaining Rental Payments hereunder, less any future interest payments embedded therein, plus (c) (i) the Purchase Option Price, or (ii) if no purchase option is granted, the estimated residual value used to calculate the Rental Payments, plus (d) any other costs to Lessor and/or Assignee arising from the loss, theft or damage to the Equipment or from the collection of the amounts specified in this sentence. In no event shall the Termination Value exceed the maximum amount permitted by applicable law.

**TITLE/DEPRECIATION** This Agreement is a lease only. Lessee does not have any right, title or interest in the Equipment, except the right to use it during the term hereof and, if so indicated, the option to purchase it as provided under this Agreement.

**PURCHASE OPTION.** If Lessee has an option to purchase the Equipment as indicated, then so long as no default exists under this Agreement and it has not been earlier terminated, Lessee may on the Termination Date, upon at least 90 days', but not more than 180 days', prior written notice to Lessor, purchase all (but not less than all) of the Equipment at the purchase option price on the Termination Date as reasonably established by Lessor, not to exceed the Purchase Option Price, "If FMV is set forth for a Purchase Option Price for its Fair Market Value, Fair Market Value will be reasonably determined by CNH Capital."

**RENT.** Lessee's right to use the Equipment and Lessee's obligation to pay rent therefor shall commence on the Beginning Date and shall continue throughout the term hereof. Rent shall be payable in the amount set forth in this Agreement, at periodic intervals and on the dates indicated and is not refundable. Lessor may change the location at which rent is to be paid by noting such change on any invoice Lessor sends to Lessee or by sending Lessee notice in writing of such change.

**FAILURE TO RETURN EQUIPMENT.** If Lessee does not exercise its option (if any) to purchase the Equipment or fails to return it at the termination of this Agreement, due to default or otherwise, then, in addition to any other amounts that may be due to Lessor under this Agreement or under applicable law, Lessee will be liable for a daily amount computed on the basis of the scheduled rental payment (if unequal, the highest rental payment will be used).

**ALTERATIONS/REPAIRS.** Lessee will not, without Lessor's prior written consent, affix or install any accessories or attachments to the Equipment nor change it so that it cannot be used by similarly situated lessees. Any improvements, replacements, additions, accessories, or repair parts to the Equipment shall become Lessor's property, free of all liens and encumbrances, and shall be deemed part of the Equipment. The Equipment is, and shall be personal property, even if it or any part of it becomes affixed or attached to real property or any improvement to real property.

**SECURITY DEPOSIT.** The Security Deposit may be applied to any amounts that Lessee fails to pay under this Agreement, including but not limited to damages to the Equipment in excess of normal wear and tear. Lessee will not earn interest on the Security Deposit.

**CONDITIONS TO LEASE.** Lessor has no obligation to lease the Equipment to Lessee, until Lessor receives (a) a fully executed Agreement, (b) evidence of insurance that complies with the requirements hereof, (c) such precautionary financing statements, or other documents, as Lessor deems necessary or appropriate to evidence and/or perfect Lessor's interest in the Equipment in accordance with the Uniform Commercial Code of the state in which located or other appropriate law, and (d) such other documents as Lessor may reasonably request.

**ACCEPTANCE OF EQUIPMENT.** Upon execution by Lessee of this Agreement, the Equipment shall be deemed to have been delivered to, and irrevocably accepted by, Lessee for lease under this Agreement.

#### **GUARANTY:**

The undersigned guarantees the prompt performance of Lessee's Obligations under the Agreement, and all modifications and extensions thereof, including prompt payment of all sums when due. The undersigned shall, immediately upon demand, pay any sum due under the Agreement and all modifications and extensions thereof, without setoff. The undersigned hereby waives notice of any modifications, amendments, or extensions of the Agreement, and of Lessee's nonperformance or breach of the Agreement. The payment obligations under this Guaranty are the direct, primary, and continuing obligations of the undersigned and the undersigned's heirs, successors and assigns, and not merely a guaranty of collection. Capitalized terms used in this Guaranty have the same meaning given to them in the Agreement.

Guarantor Signature: \_\_\_\_\_ Address: \_\_\_\_\_

Print Name: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

X \_\_\_\_\_ X \_\_\_\_\_  
Lessee's Initials Lessee's Initials

### ADDITIONAL PROVISIONS

1. Assignment. Lessor will assign this Agreement to CNH Capital America LLC (hereinafter "Assignee"). Lessee acknowledges that Lessor has the right to assign this Agreement and that all rights and benefits but no obligations (if any) of Lessor under this Agreement may be exercised by any such Assignee and that no obligations (if any) of Lessor pass to Assignee. Upon receipt of notice from Assignee with instructions for payment, Lessee shall make all payments due under this Agreement directly to Assignee. This Agreement shall be binding on and inure to the benefit of Lessee and Lessor and their respective heirs, personal representatives, successors or assigns; provided, however, that Lessee may not assign its obligations under this Agreement to any person without Assignee's prior written consent. Dealer is hereby notified that CNH Capital has assigned its rights (but not its obligations) in the agreement to purchase the asset(s) described herein to CNH Capital Leasing Exchange Services, Inc., a qualified intermediary, as part of an IRC Section 1031 exchange.
  2. Notification of Change in Residence, Principal Office, or Organizational Form. If Lessee changes (a) its state of principal residence, or (b) the state in which its chief executive office is located, or (c) the state in which its corporation, limited liability company or limited partnership is organized, or (d) its form of organization (such as from an individual to a corporation), Lessee will notify Assignee in writing promptly, but in no event more than thirty days after any such change.
  3. Waiver of Defenses Against Assignee; Indemnification. Lessee will not assert against Assignee any claim or defense which Lessee may have against Lessor or the manufacturer of the Equipment. Lessee agrees that its obligation to remit payments will not be subject to, and it will not make any claim against Assignee for breach of any representation, warranty or condition with respect to the Equipment and that its obligation to pay Assignee all amounts under this Agreement is absolute and unconditional without abatement, reduction, set-off, counterclaim or interruption for any reason whatsoever, notwithstanding any breach or alleged breach of any representation, warranty or condition with respect to the Equipment or any dispute which now or hereafter arises between Lessee and Lessor or any other person. Lessee shall indemnify and hold harmless Lessor, Assignee and their officers, directors, employees and agents from and against any damage, loss, theft or destruction of the Equipment or any part thereof, and from and against any and all loss, damages, injuries, claims, demands, costs and expenses (including without limitation reasonable attorneys' fees and expenses) of any kind and nature, arising out of or connected with the use, condition (including without limitation, all defects, whether or not discoverable by Lessee, Lessor or Assignee) or operation of the Equipment or any part thereof. Lessee shall promptly notify Assignee of any loss, damage, theft, destruction, injury, claim, demand, cost or expense related to this Agreement or the Equipment of which Lessee has notice.
  4. Lessee's Covenants. Lessee shall (i) keep the Equipment in the county of Lessee's address set forth on page 1 of this Agreement and not remove the Equipment from such address, except temporarily in connection with its ordinary use, unless Assignee consents in writing; (ii) maintain the Equipment in good condition and repair and not permit its value to be impaired; (iii) keep the Equipment and all substitutions, replacements, products, proceeds (such as insurance proceeds) and accessions related thereto (the "Collateral") free of all liens, encumbrances and security interests of persons other than Assignee; (iv) defend the Collateral against all claims and legal proceedings by persons other than Assignee; (v) pay and discharge when due all taxes, fees, levies and other charges upon the Collateral; (vi) pay when due all taxes arising from the purchase of the Equipment under this Agreement, excluding any taxes based upon Lessor's net income; (vii) use Equipment solely in the conduct of Lessee's business; (viii) ensure Equipment will be used solely within the intended uses of the manufacturer during the term of this Agreement; (ix) not sell, lease or otherwise dispose of the Equipment nor permit the Equipment to become an accession to other goods or a fixture; (x) not permit the Equipment to be used in violation of any law, regulation or policy of insurance; and (xi) strictly follow the terms of Provision 1 of this Agreement.
- Each individual executing this Agreement represents and warrants that he or she has the requisite power and authority to enter into this Agreement and execute all related documents, to perform its obligations and consummate the transactions contemplated under this Agreement and related documents and that the execution and delivery of this Agreement and all related documents and the consummation of the transactions under this Agreement have been duly authorized by the Lessee.
5. Insurance. Lessee shall keep the Equipment and Lessor's and its assigns interest in it insured against fire, theft, physical damage and other hazards under policies listing Assignee as loss payee or as an additional insured, with such provisions, for such amounts (but not less than the unpaid balance outstanding under this Agreement) and by such insurers as shall be satisfactory to Assignee from time and time, and shall furnish evidence of such insurance satisfactory to Assignee. Such insurance shall provide at least 30 days written notice of cancellation, lapse or expiration to Assignee. Lessee assigns (and directs any insurer to pay) to Assignee Lessee's interest in the proceeds of all such insurance and any premium refund and Assignee may, at its option, apply such proceeds and refunds to any unpaid balance of the Obligations, whether or not due, and/or to repair or restore the Equipment, returning any excess to Lessee. Lessee must make all payments due under this Agreement whether or not the Equipment is insured or underinsured. Assignee is authorized, in the name of Lessee or otherwise, to make, adjust and/or settle claims under any insurance on the Equipment, or cancel the same after the occurrence of an event of default.
- If Lessee purchased physical damage insurance that is financed under this Agreement, Lessee hereby requests and authorizes Lessor (provided Lessor is properly licensed to do so) or Lessor's designee: (a) to arrange physical damage insurance for the benefit of Lessor and Lessee that covers physical damage to the Equipment, (b) to replace or otherwise modify such insurance as Lessor deems appropriate and (c) to be Lessee's attorney-in-fact to make claim for, receive payment of and execute and endorse and negotiate all documents, checks or drafts received in payment of loss or damage under the insurance. This Agreement includes and hereby incorporates by reference any Insurance and Extended Service Plan Addendum signed in connection with this Agreement.
- STATEMENT TO LESSEE: THE PHYSICAL DAMAGE INSURANCE PURCHASED UNDER THE TERMS OF THIS AGREEMENT COVERS ONLY LOSS OF OR DAMAGE TO THE EQUIPMENT. LIABILITY INSURANCE COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE CAUSED TO OTHERS IS NOT INCLUDED AS PART OF THE PHYSICAL DAMAGE INSURANCE. LESSEE UNDERSTANDS THAT IF INSURANCE IS FINANCED UNDER THIS AGREEMENT, PRE-PAYMENT OF LESSEE'S OBLIGATIONS OR TERMINATION OF THIS AGREEMENT MAY RESULT IN LOSS OF INSURANCE COVERAGE.**
- If Lessee purchased liability insurance that is financed under this Agreement, Lessee hereby requests and authorizes Lessor (provided Lessor is authorized to do so) or Lessor's designee to arrange for the liability insurance to be issued.
6. Modifications and Waivers. This Agreement sets forth the entire understanding between Lessor and Lessee. No modification, amendment or extension of this Agreement and no waiver of any provision of this Agreement shall be valid unless in writing and signed by the parties and a waiver of any default hereunder by Lessor shall not constitute a waiver of any other prior or subsequent default, except that Lessee authorizes Lessor to insert in this Agreement the serial number/PIN and/or model number of any Equipment if this information is unknown when this Agreement is executed or to correct any errors in such numbers or any other patent errors in the description of the Equipment.
  7. Authority of Assignee to Perform for Lessee. If Lessee fails to perform any of Lessee's duties set forth in this Agreement (including, specifically but without limitation, the purchase of insurance), Assignee may, at its option, in Lessee's name or otherwise, take any such action, including, without limitation, signing Lessee's name or paying any amount so required, and all costs and expenses incurred by Lessor or Assignee in connection therewith shall form part of the Obligations and shall be payable by Lessee upon demand with interest from the date of payment by Lessor or Assignee at the highest rate permitted by law.
  8. Default. Lessee shall be in default under this Agreement if any of the following occurs:
    - (a) Lessee fails to pay when due any of the Obligations, or to perform any other obligation of Lessee in this Agreement or in any renewal or refinancing of this Agreement;
    - (b) a Lessee dies, ceases to exist, becomes insolvent or the subject of bankruptcy, insolvency or liquidation proceedings, attempts to assign this Agreement or attempts to remove, sell, transfer, further encumber, part with possession of or sublet any Equipment;
    - (c) any warranty or representation made by Lessee to induce Lessor or Assignee to extend credit to Lessee, under this Agreement or otherwise, is false in any material respect when made or Lessee fails to perform any covenant under this Agreement;
    - (d) Lessee fails to maintain applicable required insurance or fails to comply with the requirements of any such insurance;
    - (e) any other event occurs that causes Lessor or Assignee, in good faith, to consider that payment or performance of the Obligations is impaired or that the Equipment is at risk; or
    - (f) the Equipment is impounded or confiscated by any federal, state or local governmental authority.
  9. Expenses. To the extent not prohibited by law, Lessee shall reimburse Lessor or Assignee for any expense incurred by Lessor or Assignee in protecting or enforcing their rights under this Agreement, including, without limitation, reasonable attorneys' fees and legal expenses and all expenses of taking possession, transporting, holding, repairing, refurbishing, preparing for disposition and disposing of the Collateral, and all expenses and costs incurred in collecting the Obligations, and all such expenses shall form part of the Obligations.
  10. Conflict with Law. Any provision of this Agreement prohibited by applicable law shall be ineffective to the extent of the prohibition without invalidating the remaining portions of this Agreement. The validity, construction and enforcement of this Agreement are governed by the laws of the state in which the Lessor is located. All terms not otherwise defined have the meanings assigned to them by the Uniform Commercial Code.
  11. Authorization to Execute and File Financing Statements and Lien Documents. Lessee hereby authorizes Lessor or Lessor's designee to execute and file financing statements, and any motor vehicle title, registration and lien notification documentation, and any amendments thereto on behalf and in the name of Lessee to evidence Lessor's security interest in the Collateral.

X \_\_\_\_\_ X \_\_\_\_\_  
 Lessee's Initials      Lessee's Initials

- 12 Remedies Upon Default. If Lessee is in default, Lessor may terminate this Agreement. If Lessor terminates this Agreement as a result of Lessee's default, Lessor will have the rights and remedies provided by law and by this Agreement, and Lessee will lose all rights to keep the Equipment. Lessor will have the right to take the Equipment without demand. To take it, Lessor may enter the premises where the Equipment is stored and remove it. Lessor may take any property in the Equipment at the time of repossession and hold it for Lessee. The repossession of the Equipment by Lessor does not release Lessee from its obligations under this Agreement. Lessee agrees that Lessor may sell the Equipment (including at wholesale), re-lease it or otherwise dispose of it in a commercially reasonable manner. Lessee agrees to pay Lessor, as liquidated damages, an amount equal to (a) the Termination Value, plus (b) a processing fee ("Processing Fee") equal to the lower of \$500.00 or the maximum amount permitted by applicable law. The net proceeds of the disposition of the Equipment by sale, or re-lease for the remaining term of lease under this Agreement, shall reduce the Lessee's obligations pursuant to the preceding sentence and any costs to Lessor and/or Assignee arising from repossessing the Equipment and/or selling the Equipment and/or re-leasing the Equipment for the remaining term of lease under this Agreement, including, without limitation, reasonable legal fees and costs to collect the Processing Fee, shall increase the Lessee's obligations pursuant to the preceding sentence.
- 13 Taxes. Lessee agrees to pay all taxes (or reimburse Lessor for any taxes) imposed by any government, political subdivision or taxing authority upon or with respect to (a) the purchase, ownership, possession, acceptance, relocation, repair, lease, return, sale or use of the Equipment, (b) the rental payments or any other payment required under this Agreement, or (c) any of the transactions contemplated by this Agreement. The term "taxes" shall mean any and all fees (including, without limitation, license, documentation, recording and registration fees), taxes (including, without limitation, gross receipts, sales, rental, use, value added, goods and services, property (tangible and intangible), excise and stamp taxes), licenses, levies, duties, assessments or withholdings of any nature whatsoever (together with any and all penalties, fines, addition to tax and interest thereon), except all taxes on or measured by Lessor's net income.
- 14 Tax Representations and Indemnification. As the owner Lessor shall be entitled to claim all items of deduction, including depreciation, on the Equipment that are consistent with ownership for tax purposes (the "Tax Benefits"). Lessee will not take or omit to take any action which would cause this Agreement not to be treated as a true lease for U.S. federal tax purposes. If Lessor loses the right to claim all or any portion of the Tax Benefits, or if all or any of the Tax Benefits claimed by Lessor are disallowed, recaptured, reduced, or eliminated, or if Lessor's originally contemplated after-tax return is adversely affected (a "Loss of Tax Benefits") as a result of (i) the inaccuracy or falsity of any representation or warranty made by Lessee in this Agreement, (ii) Lessee's breach of or failure to perform any covenant or agreement hereunder, or (iii) any other act or omission by Lessee, then Lessee shall pay Lessor such amount as shall, in Lessor's reasonable opinion, cause Lessor to receive over the full term of this Agreement the same after-tax return that Lessor would have realized if there had not been a Loss of Tax Benefits (the "Original Net Economic Return"). If, as a result of any change in U.S. federal and/or applicable state income tax law enacted after the date of this Agreement, Lessor shall have a Loss of Tax Benefits, Lessee shall pay Lessor, upon Lessor's request, that amount which will provide Lessor the Original Net Economic Return. Any amounts due hereunder shall be payable at Lessor's election either as supplemental rent during the remaining term of this Agreement or as a lump sum payable on demand.
- 15 Liability Insurance. Lessee shall obtain liability insurance from a carrier acceptable to Assignee in such form and subject to such limits as Assignee may reasonably require protecting the interests of Lessor, Assignee and Lessee against claims for damages or injuries to persons or property caused by the use, condition, holding or operation of the Equipment.
- 16 Excessive Wear and Tear. For purposes of this Agreement, excessive wear and tear shall mean and include any of the following:
- |   |   |
|---|---|
| (a.) Cab/Operator Platform  | (c.) Mechanical   |
| (a.1) Heavy interior soil.  | (c.1) Mechanical - Mechanical components that are missing, broken or unsafe or that do not operate normally. The battery will need to be replaced if the battery is dead upon the delivery of the unit at lease end.  |
| (a.2) Unclean condition of the cab.   | (c.2) Equipment - Computer systems or safety or emission control equipment not in proper working order.   |
| (a.3) Holes, tears or burns on the dash, floor covers, seats, headliners, upholstery or interior.   | (c.3) Brakes - Brake drums that are cracked or exceed manufacturer's recommended wear limits, brake linings showing less than 50% remaining wear, or brakes that leak oil or fluid.   |
| (a.4) Hour Meter: If the hour meter or dash has been tampered with the lessor has the right to estimate excess hours plus any additional penalties deemed appropriate.  | (c.4) Power Train - Wear on power train assembly that exceeds manufacturer's then-current standards for normal wear (as shown by oil sample analysis).  |
| (a.5) Seat and or seat belts broken.  | (c.5) Undercarriage - Leaky lubrication seals, improperly tightened track tension, cracked or broken track shoes or fasteners, less than 50% of original life remaining on any parts, or any undercarriage components not being of the original size, type, grade or manufacturer.  |
| (b.) Exterior.  | (c.6) Hydraulic System - Any pumps, motors, valves or cylinders not in good operating condition or that fail to meet manufacturer's rated specifications, or hydraulic system exceeds manufacturer's then-current contaminant standards (as shown by oil sample analysis).  |
| (b.1) Dents larger than 2" in diameter or excessive number of dents.  | (c.7) Air Filters - Any filters not within manufacturer's specifications.   |
| (b.2) Scratches - Any excess scratches to the paint or any one individual scratch that exceeds 8" in length.  | (c.8) Electrical System - Any gauges or fluid indicators that are damaged or do not function, an alternator that fails to operate properly, a battery that fails to hold a charge, or any wire harnesses that are not tied down and kept secure, dry, clean and dust-free.  |
| (b.3) Chips - Any single chip the size of a quarter or larger or multiple smaller chips within 1 square foot.   | (c.9) Leaks - Any general leaks that cost in excess of \$100 to repair including labor.   |
| (b.4) Paint - Substandard paint, such as peeling, bubbling or mismatched shades that evidence poor condition in comparison with original paint.   | (c.10) Mufflers/Exhaust Pipes burnt out.  |
| (b.5) Rust - Rust holes in the body metal or any rust spots.  | (c.11) Damaged or Inoperable horn.  |
| (b.6) Glass Damage - Any glass that must be replaced due to cracks or missing glass and any windshield damages.   | (d.) General; Other.  |
| (b.7) Frame Damage - All frame damage and substandard frame repairs in addition to modifications made to the frame.   | (d.1) General - Failure to operate and maintain the Equipment in accordance with the manufacturer's specifications, or use of components, fuels or fluids on or in connection with the Equipment that do not meet manufacturer's standards.   |
| (b.8) Blades, Buckets and Other Attachments - Any broken or cracked teeth on any attachments included with the Equipment.   | (d.2) Other - Any other damage or repair including but not limited to unlawful or unsafe operating conditions, or that make the Equipment either unlawful or unsafe to operate. All repair estimates will be based upon applicable Lessor rates or, if Lessor is unable to estimate and repair such excessive wear and tear, then at rates applicable at another outlet as reasonably selected by Lessor. |
| (b.9) Tires/ Tracks - Any tires on returned Equipment that are in an unsafe condition, cracks, that have broken side walls, that are not original casings, that have less than 50% of original tread remaining, or that are not of the same size, type, grade or manufacturer (or equivalent-quality manufacturer) as were originally included on the Equipment. Lessee will be required to pay for the cost of a new tire if the above conditions are not met. |   |
| (b.10) Unclean exterior requiring but not limiting to steam cleaning.   |   |
| (b.11) Broken or Inoperable lights  |   |
| (b.12) Any Mirror damage.   |   |
| (b.13) Bent or Broken Steps. Dented or bent wheel rims.   |   |

X \_\_\_\_\_ X \_\_\_\_\_  
Lessee's Initials Lessee's Initials





FX00000131133361009A

64150 / 97989 / CEDAR CITY CORPORATION

**Automatic Payment Plan Enrollment Form**

The undersigned authorizes CNH Capital America LLC or any assignee ("CNH Capital") to initiate withdrawals from the account designated below and maintained with the bank identified below by any means agreed upon by CNH Capital and the bank, or to withdraw by electronic fund transfer from said account, sums due CNH Capital pursuant to retail contracts or leases. The undersigned further authorizes the bank to take all actions necessary to effect such withdrawals and transfers. The undersigned may cancel these authorizations by providing CNH Capital written notice, but any such cancellation will become effective five days after CNH Capital receives the notice. CNH Capital may cancel this authorization at any time by written notice.

Customer Name (as it appears on the payment notices) \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Customer's Bank Name \_\_\_\_\_

Bank Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Your CNH Capital Customer / Note Number \_\_\_\_\_

I prefer to use my checking account. I have enclosed a voided check.

Routing # \_\_\_\_\_ Account # \_\_\_\_\_

I prefer to use my savings account. I have enclosed confirmation from my bank with the transit number and my withdrawal slip.

Routing # \_\_\_\_\_ Account # \_\_\_\_\_

Be sure to date and sign this form.

Date \_\_\_\_\_ Signature \_\_\_\_\_

Date \_\_\_\_\_ Signature \_\_\_\_\_

X \_\_\_\_\_ X \_\_\_\_\_  
Lessee's Initials Lessee's Initials



PHYSICAL DAMAGE INSURANCE  
COVERAGE VERIFICATION



To:

Date: 01-15-2014

Insurance Company: URMMA

Agent: KATHY KENNISON

Phone No.: (801) 255-6992

Fax No.: (801) 255-6879

Policy No.:

EQUIPMENT DETAILS

N/U	MANUFACTURER	DESCRIPTION	MODEL	SERIAL #/PIN	STOCK NUMBER	HOURS	VALUE
N	Case	Tractor Loader / Bac	580SN	JJGN58SNLDC586333	586333	0.0	\$ 79,600.00
							\$
							\$
							\$
							\$
							\$
TOTAL							\$ 79,600.00

Attach:

This is to authorize you to furnish the Seller or Lessor with proof that physical damage insurance is in effect on the above described equipment with a loss payable value in favor of Seller or Lessor and CNH Capital America LLC .

This authorization is for the period beginning 01-15-2014 and ending 01-15-2015 for the amount indicated above.

Insured

Seller or Lessor

Name: CEDAR CITY CORPORATION

Name: CENTURY EQUIPMENT COMPANY, INC.

Address: 10 N MAIN STREET

Address: 482 N Main  
PO Box 972

City, State & Zip: CEDAR CITY, UT 84720-2635

City, State & Zip: Cedar City, UT 84720

Home Phone No.:

Phone No.: (435) 586-4406

Business Phone No.: (435) 586-2950

Fax No.: (435) 586-2362

X

Customer Signature

CEDAR CITY CORPORATION

Print Customer Name



## LEASE GUARANTEE ADDENDUM



F#00000131133361091A

84150 / 97969

**Dealer Name:** CENTURY EQUIPMENT COMPANY, INC.

**Customer Name:** CEDAR CITY CORPORATION

**Date of Equipment Lease Agreement:** 01-15-2014

**Description of Lease Equipment:** Case Tractor Loader / Backhoe 580SN JJGN58SNLDC586333

**Credit Application Number:** 97969

Notwithstanding anything to the contrary in the ASSIGNMENT provision of the Equipment Lease Agreement described above (the "Agreement"), in order to induce CNH Capital America LLC or, in Canada, CNH Capital Canada Ltd. (hereinafter "CNH Capital") to take assignment of the Agreement from Dealer pursuant to the terms of the Retail Financing Agreement, Dealer hereby agrees with CNH Capital as follows:

### Payment Guarantee

- ☐ If checked, Dealer agrees to guarantee full payment of all payments due on the Agreement. If Customer fails to make any rental payment when due under the Agreement, Dealer shall pay to CNH Capital upon demand an amount equal to (a) any past due, unpaid rental payments and any late charges related thereto, plus (b) all remaining rental payments.

### Guarantee above Published Residual

- ☒ If checked, Dealer agrees to pay CNH Capital the amount described in the following sentence. Upon termination of the Agreement for any reason, if Customer does not exercise any purchase option or fails to make payment of an exercised purchase option on the Leased Equipment, Dealer shall pay to CNH Capital an amount by which (i) the sum of (a) any matured and unpaid rent and any late charges related thereto, (b) all remaining rental payments, (c) the Purchase Option Price, (d) any excess hour charges, (e) reasonable attorney fees and legal expenses incurred in connection with the Agreement, and (f) any other liabilities accruing under the Agreement, exceeds (ii) the net proceeds received upon disposition of the Leased Equipment; but in no event more than the Amount of Residual Value Under Guarantee identified below.

Amount of Residual Value Under Guarantee: \$ 7,610.61

**Dealer:** CENTURY EQUIPMENT COMPANY, INC.

**By:** \_\_\_\_\_  
Authorized Signator/Officer

**Name:** \_\_\_\_\_

**Title (if applicable):** \_\_\_\_\_

**Date:** 01-15-2014



**City Council**  
**AGENDA ITEM       #8**

**INFORMATION SHEET**

**TO:** Mayor Wilson and City Council

**FROM:** Economic Development, Brennan Wood

**DATE:** January 6, 2014

**SUBJECT:** Solar Project Updates

**DISCUSSION:**

First Wind is an independent North American renewable energy company focused on the development, financing, construction, ownership and operation of utility-scale power projects in the United States. Based in Boston, First Wind has developed and operates 980 megawatts (MW) of generating capacity at 16 wind energy projects in Maine, New York, Vermont, Utah, Washington and Hawaii. First Wind is an expert in the field of renewable energy and has a proven track record in the State of Utah with two large scale projects including a 204 and 102 MW wind farm. First Wind is proposing three 3 MW sites in Iron County: Beryl, Cedar Valley and Buckhorn.

SunEdison is a trusted partner for innovative, intelligent energy solution around the globe. SunEdison develops, finances and operates solar energy projects around the world. SunEdison is publicly traded on the NYSE (ticker: SUNE), with a \$3.5B market cap. SunEdison has developed more than 1.2 GW of solar energy capacity with over 1,000 operational sites while delivering 3,653,728 MWh of electricity. SunEdison was the first solar energy provider to raise more than \$3 billion in project financing and first solar energy services provider to commercialize the Power Purchase Agreement, eliminating capital outlay from customers. SunEdison is proposing six 3 MW sites in Iron County near the Iron Mines.

See attached Draft Plans with project details.



December 16, 2013 Draft

# **Beryl Solar Community Development Project Area Plan**

Adopted \_\_\_\_\_, 2014



**Prepared by:**  
**Cedar City – Iron County Office of Economic Development**  
**Brennan M. Wood – Director**

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## **1. Introduction, Adoption of Project Area Plan**

The Iron County Community Development and Renewal Agency also referenced herein as “the Agency” requested that Smith Hartvigsen, PLLC and the Cedar City – Iron County Office of Economic Development prepare a Community Development Project Area Plan pursuant to the provisions of Chapters 1 and 4 of the Utah Community Development and Renewal Agencies Act, Title 17C of the Utah Code Annotated 1953, as amended (the “Act”). The requirements of the Act, including notice and hearing obligations, have been scrupulously observed at all times throughout the establishment of the Project, the Project Area and this Plan. This Community Development Project Area Plan (the “Project Area Plan” or the “Plan”) is for a project (the “Project”) located entirely within the boundaries of Iron County. The specific boundaries and proposed development that will occur within these boundaries are all set forth in this Project Area Plan. This Plan shall be titled, “Beryl Solar Community Development Project Area Plan” adopted on \_\_\_\_\_, 2014.

A map of the proposed Community Development Area (“CDA”) project area is included as Exhibit A.

The Iron County Community Development and Renewal Agency has determined that the proposed project area meets the criteria for creation of a CDA. The area offers the opportunity to encourage development of a solar project that will attract private capital investment, contribute to the tax base, create jobs, and otherwise contribute to the economic vitality and prosperity of Iron County.

Creation of the CDA will allow Beryl Solar, LLC a subsidiary of First Wind the opportunity to build its solar portfolio and will expand Utah’s renewable energy programs. The energy from this Project will be sold to Rocky Mountain Power via long-term power purchase agreements at no additional cost to ratepayers.

This document is prepared in good faith as a current reasonable estimate of the economic impact of this Project. Fundamental economic and other circumstances may influence the actual impact. With these assumptions, the information contained within this report represents the reasonable expectations of the Project.

The ordering of sections of this Project Area Plan document is consistent with the presentation of requirements and other criteria for CDA development as set forth in Utah Code § 17C-4-103.

Contacts: Brennan M. Wood  
Cedar City – Iron County Office of Economic Development  
10 N. Main  
Cedar City, Utah 84720  
Office Phone: 435-865-5115  
wbrennan@cedarcity.org

Smith Hartvigsen, PLLC  
J. Craig Smith  
Adam S. Long  
175 S. Main Street, Suite 300  
Salt Lake City, Utah 84111  
Office Phone: 801-413-1600  
jcsmith@smithlawonline.com

## **2. Proposed Community Development Project Area Boundaries**

The proposed project area is located within Iron County, Utah and is approximately 240 acres (the "Project Area"). A map of the Project Area is attached as Exhibit A and incorporated herein (the "Project Area Map").

The area proposed to be contained within the CDA is as follows: Part of parcel E-1458-0000-0000

Parcel Number	Current Owner Name	Acreage	2013 Market Value	2013 Taxable Value	Solar Project Site
E-1458-0000-0000	T.W. Jones & Sons	240	\$108,300	\$75,240	\$9,512

Parcel: S1/2NW1/4NE1/4, SW1/4NE1/4, SE1/4NE1/4,N1/2SE1/4SE1/4, NE1/4SE1/4 SEC 21, SW1/4NW1/4, NW1/4SW1/4 SEC 22, T36S, R16W,SLMEXCL 3 ACRES FOR ROADS.

## **3. Summary of Existing Land Use, Principal Streets, Population Densities and Building Intensities**

### **Existing Land Use Map**

A map of existing zoning in the Project Area is included as Exhibit B and is incorporated herein (the "Zoning Map"). A map indicating the layout of principal streets serving the area is included as Exhibit "C".

The land included in the Project Area is zoned Agricultural 20 ("A-20"). The principal access to the Project Area is Highway 18 with access off of Highway 56. The Project Area is 40 miles from Interstate 15. Highway 56 is a four lane highway running east and west through Iron County.

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W4000 S

W4400 S

E-3600 S

E-4000 S

E-4800 S

SEALING PROPERTY BOUNDARY

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**Population Density in the Project Area** – The Project Area does not contain any residential housing units.

**Impact of Community Development on Land Use, Population, and Building Density** – No change in zoning is required and the proposed Project is consistent with area usage. A-20 zoning allows for solar projects through the approval of a conditional use permit. Solar photovoltaic (PV) power generation consists of multiple photovoltaic modules or solar panels to convert sunlight into usable electricity. This Project will not have a significant impact on the surrounding properties, roads or other infrastructure.

#### **4. Standards That Will Guide Community Development**

Development in the Project Area will be subject to appropriate elements of the Iron County Building Permit Checklist, the Iron County Conditional Use Permit, and all applicable Iron County Ordinances. Development/expansion proposals shall be accompanied by site plans, development data, and other appropriate material clearly describing the extent of development/expansion proposed, and any other data that is required by Iron County's Building and Zoning Department.

The Iron County Planning Commission may grant a conditional use permit if it finds:

1. The proposed use will not be unduly detrimental or injurious to property or improvements in the vicinity and will not be detrimental to public health, safety, or general welfare.
2. The proposed use will be located and conducted in compliance with the goals and policies of the Iron County General Plan and the purposes of this title and the land management code.
3. That the property on which the development is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.
4. The proposed use does not propose any construction on any critical lands.

#### **5. Description of How Purposes of the Act Will be Attained**

Title 17C of the Utah Code contains the following definition of Community Development:

"Community development" means development activities within a community, including the encouragement, promotion, or provision of development. (U.C.A § 17C-1-102(16)).

The creation of the Proposed Beryl Solar Community Development Project Area furthers the attainment of the purposes of Title 17C by addressing the following objectives:

**Provision of development that enhances economic and quality of life basis.** The proposed community development project will provide numerous economic and community benefits including the generation of 90 construction jobs and 1/3 full-time equivalent ("FTE").

**Stimulation of associated business and economic activity by the development.** This Project will meaningfully enhance Iron County's property tax base. The direct and indirect impact provided by construction jobs to the existing economy in Iron County will be significant. As of August 2014, Iron County has an unemployment rate of 5.9 percent, or 1.2 percent higher than the State of Utah generally. Iron County also has one of the highest poverty rates in the state with a rate of 20.7 percent. Local businesses that will benefit include hotels, restaurants and suppliers and vendors servicing the proposed new facility.

The Project will achieve the following:

1. Enhance employment and income opportunities for community residents by offering employment opportunities within the County
2. Increase the diversity of the tax base and increase the resources available for performing governmental services

3. Encourage and support the use of Iron County's natural resources
4. Support and encourage appropriate public and private development efforts in the community

## **6. Conformance of the CDA to the Community's General Plan**

The Beryl Solar CDA is consistent with the Iron County General Plan, adopted October 10, 1995.

The Iron County Vision is to maintain a quality of lifestyle for all present and future residents of Iron County, grounded upon economic vitality, while managing natural resources and preserving scenic beauty, traditional values and stability. Beryl Solar, LLC will invest in this Project creating economic development opportunities while using the counties renewable resources.

The following are General County Goals found in the General Plan that relate to the development of the Beryl Solar CDA:

1. To retain control of issues which affect the county's customs, culture and economic stability
2. To maintain economic integrity and vitality
3. To manage natural resources in order to insure the viability of the resources
4. To keep a clean environment

**Business and Economic Activity Diversification.** Iron County seeks to encourage a balanced mix of economic activity, including but not limited to: agriculture; agri-business, mining; timber and wood products; manufacturing; commercial; retail; cultural; entertainment; service industry; and government services uses which result in a diversified, stable, and environmentally sound local economic base. This Project will support those goals.

**Zoning Ordinances.** The Project Area is currently zoned A-20. The agriculture district is provided and designed to protect and preserve lands suited for farming, ranching, the production of food and fiber, open recreational parks, services or related purposes and services providing rural lodges and rural estate living, and to encourage open areas for protection from encroachment of incompatible uses. Other purposes of this district include protection of the economic base of the county and the protection of environmentally sensitive lands, such as areas subject to flooding, wetlands, unstable soils, and areas with steep slopes. The permitted and conditional uses are intended to be compatible with agricultural uses while encouraging economic growth and reasonable options for the use of private property. The district discourages intense uses due to lack of necessary services and the potential cost to Iron County residents of providing the services necessary to support higher density or more intense development and activities. Solar projects are allowed within an area zoned A-20 with a conditional use permit.

**Building Code.** The Project enhancements will be constructed in accordance with all applicable Iron County building codes.

## **7. Specific Project Outline and Its Potential for Job Creation**

The formation of the CDA Project Area will provide Iron County with job creation opportunities by creating approximately 90 short term construction jobs and 1/3 FTE. The proposed solar project will occur due to the provision of incentives to the Participant as specified in the Project Area Plan and participation agreements with the Participant(s). Ground breaking for the Beryl solar project is expected to take place in August 2014 with a projected Commercial Operations Date (COD) of July 2015.

## **8. Selection of Participant**

The Agency does not own or control any property within the Project Area. The Agency desires the owners of real property in the Beryl Solar Community Development Project Area to partner with Beryl Solar, LLC to develop property. The Agency believes that Beryl Solar is good choice to develop this Project based on the resources and investment capital available to its parent company, First Wind, and the experience of First Wind with other alternative energy projects in Utah and across the country.

First Wind is an independent North American renewable energy company focused on the development, financing, construction, ownership and operation of utility-scale power projects in the United States. Based in Boston, First Wind has developed and operates 980 megawatts (MW) of generating capacity at 16 wind energy projects in Maine, New York, Vermont, Utah, Washington and Hawaii. First Wind is an expert in the field of renewable energy and has a proven track record in the State of Utah with two large scale projects including a 204 and 102 MW wind farm.

The Agency anticipates that owners will take advantage of the opportunity to develop property as outlined in this Plan.

## **9. Reasons for Selection of Project Area**

The Project Area was selected by the Agency due to the immediate opportunity to strengthen the County's economic base through construction of a solar power generation facility. Additionally, the Project Area was selected based on the following factors:

1. The lack of economically profitable uses for the land where the solar facility will be constructed
2. The recognition that the Project Area needs assistance to attract the investment of private capital
3. The ability to enable the Project Area to be competitive in the site selection process
4. The opportunity to initiate a public/private partnership to improve this area of the county

## **10. Description of Physical, Social/Economic Conditions Existing in the Project Area**

The Project Area is currently a combination of irrigated fields and bare land that is unsuitable for agricultural use without supplemental irrigation. The actual solar power generation facilities will be constructed on land in the Project Area that is not irrigated and not used to grow crops. Discussion

of social and economic conditions within the Project Area is superfluous as there are no residents or structures within the Project Area.

More generally, Iron County has one of the highest rates of poverty and lowest median household incomes in the state. CDA's encourage development in areas that are underutilized, blighted or under economic stress and will have a positive impact on the physical environment, as well as the socioeconomic characteristics of the surrounding. The Beryl Solar CDA will increase capital investment in the area, encourage other development, and offer quality employment for County residents.

## **11. Tax Incentives Offered to Private Entities for Development within the Project Area**

The Agency intends to use a portion of the tax increment generated by development within the Project Area to reimburse the Participant for a portion of the resulting property tax paid. The primary purpose of incentives offered by the Agency to the Participant is to make the Project Area more attractive as a site for a solar power generation project and the defray costs of any improvements that may need to be made to the site. The Agency will negotiate and enter into one or more voluntary interlocal agreements with taxing entities, including Iron County and the Iron County School District, that levy property tax on the Project Area to secure receipt of a portion of the property tax increment generated in the Project Area that would otherwise be paid to the taxing entities. The Agency intends to secure 50 percent of the tax increment for use by the Agency.

The Agency predicts the increment from the Project as follows (may be higher or lower, depending on actual assessed values as the projections, involve certain development assumptions, forecasting techniques, and other factors.):

- Projected 10 year total tax increment is \$424,163.93
- Projected 10 year incentive at 50% is \$212,163.93
- Projected increase in revenue to the taxing entities over the 20 year life of the project is \$384,966.41

The total assessed value of the property within the Project Area is currently \$9,512 and will increase with enhancements to the proposed Project Area. The base year for tax increment calculations and the schedule of increment payments to the Agency will be set in the interlocal agreements negotiated with the various taxing entities.

The Agency intends to negotiate voluntary agreements with the taxing entities to provide property tax increment of 50 percent for 10 years to be paid to the Agency for community development Project Area purposes. The source of funds for payments to the Participant will be tax increment revenues generated through investment in real and personal property in the Project Area.

All incentives and payments to the Participant will be performance based and will be offered only according to the terms of a Participation Agreement that adequately protects the Agency and the taxing entities by ensuring performance by the Participant. Subject to the provisions of the Act, the

Agency may agree to pay for eligible development costs and other items from such tax revenues for the period of time the Agency and the taxing entities may deem appropriate under the circumstances.

## **12. Analysis of Anticipated Public Benefits from the Community Development**

The Project will benefit the tax base of the community and will encourage other economic development in the community.

### **Beneficial Influences upon the Tax Base of the Community**

The beneficial influence on the tax base will happen through an increase of the property tax base of the Project Area. As development occurs within the Project Area, the value of real and personal property within the Project Area will increase and property tax revenue will correspondingly increase.

The capital investment for this Project is estimated at approximately \$5,500,000.

In order to calculate the net new taxes generated by project development within the CDA, or tax increment, the existing tax base within the Project Area has to be taken into account. According to the Iron County Assessor's Office, the current total assessed value as of 2013 is \$9,512.

### **Associated Business and Economic Activity Likely to be Stimulated**

The development, construction, and operation of the proposed solar power generation facility will provide jobs in the area and directly and indirectly promote economic activity. As noted in this Plan, the construction of the Project will involve approximately 90 construction jobs and approximately 1/3 FTE. The additional jobs will bring revenue to the area and will benefit local business including hotels, restaurants, suppliers and vendors servicing the proposed Project. Additionally, the successful development and operation of the proposed solar power may encourage other such projects, providing further benefit to the community and the area.



## **Exhibits**

**Exhibit A**

**Project Area Map**

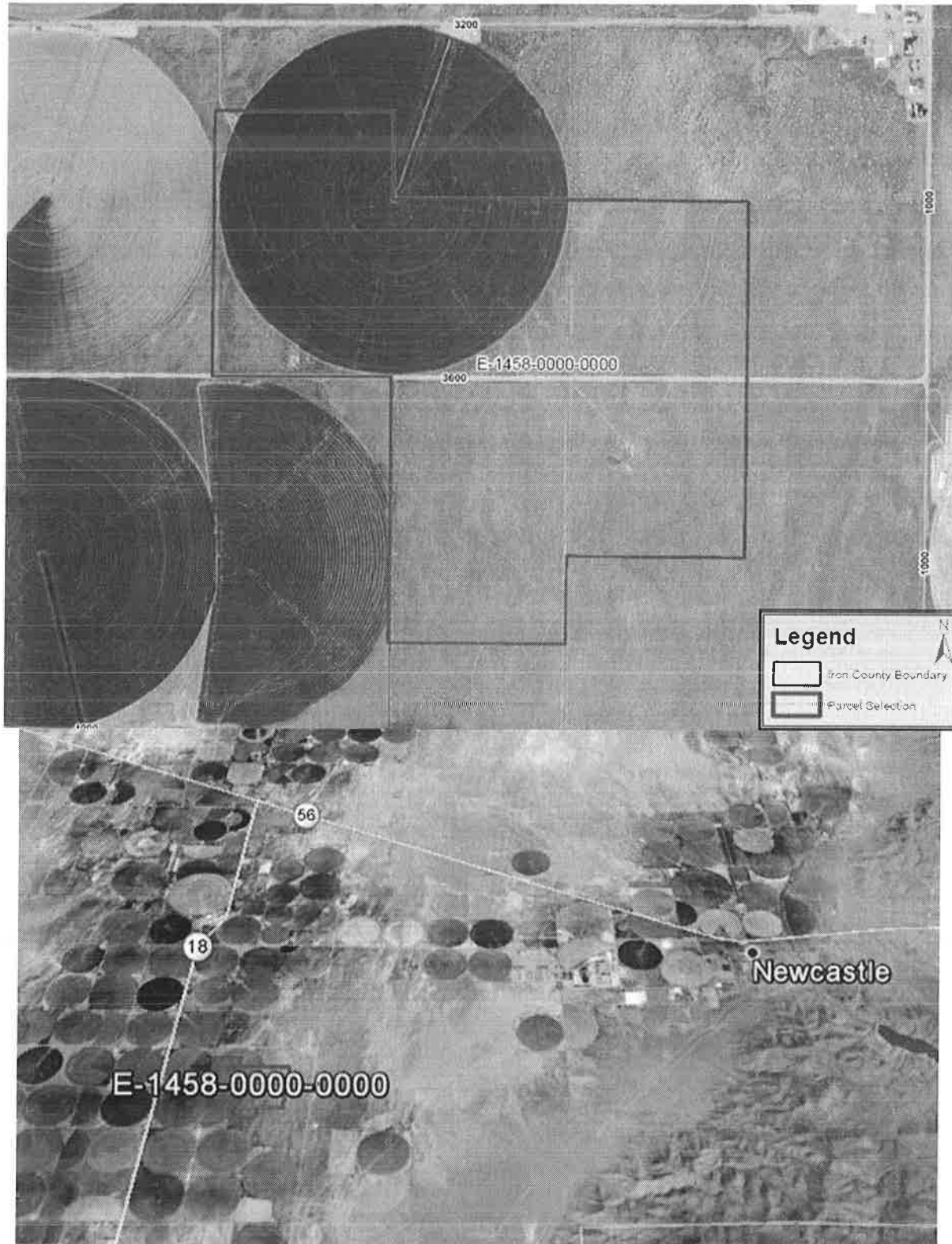
**Exhibit B**

**Zoning Map**

**Exhibit C**

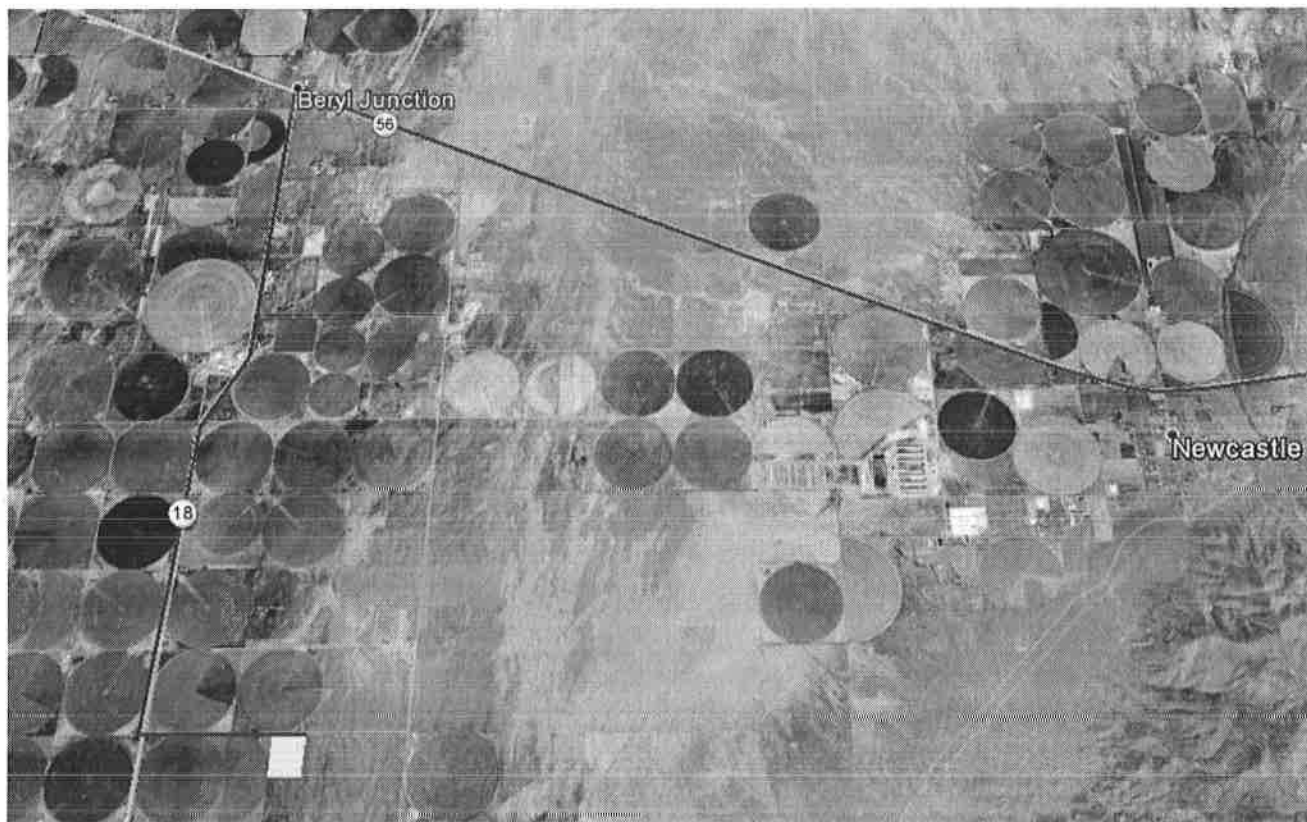
**Principal Streets**

Exhibit A





## Exhibit C



# **SunEdison Phase I DRAFT Community Development Project Area Plan**

**January 6, 2014**



**Prepared by:  
Cedar City – Iron County Office of Economic Development  
Brennan M. Wood – Director**

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## **1. Introduction, Adoption of Project Area Plan**

The Iron County Community Development and Renewal Agency (the "Agency") requested that the Cedar City – Iron County Office of Economic Development prepare a Draft Community Development Project Area Plan in conformance with the requirements of Utah Code Ann. § 17C-1-101 et seq. (the "Act"). This Draft Community Development Project Area Plan (the "Project Area Plan") is for a project area located entirely within the boundaries of Iron County. The specific boundaries and proposed development that will occur within these boundaries are all set forth in this Project Area Plan document. The project area shall be known as the "SunEdison Phase I Community Development Project Area," dated January 6, 2014 (the "Project Area").

A map of the proposed Project Area is included as Exhibit A.

The Agency has determined that the proposed Project Area meets the criteria for creation of a Community Development Area ("CDA"). The Project Area offers the opportunity to encourage development of certain solar power plants known as Fiddler's Canyon I, Fiddler's Canyon II, Fiddler's Canyon III, Quichapa I, Quichapa II, and Quichapa III (the "Project") that will attract private capital investment, contribute to the tax base, create jobs, and otherwise contribute to the economic vitality and prosperity of Iron County.

Creation of the Project Area will allow SunEdison the opportunity to build its solar portfolio and will expand Utah's renewable energy portfolio. The energy from the Project will be sold to Rocky Mountain Power via long-term power purchase agreements.

This document is prepared in good faith as a current reasonable estimate of the economic impact of the Project. Fundamental economic and other circumstances may influence the actual impact. With these assumptions, the information contained within this report represents the reasonable expectations of the Project.

The ordering of sections of this Project Area Plan document is consistent with the presentation of requirements and other criteria for CDA development as set forth Utah Code Ann. § 17C-4-103.

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Cedar City, Utah 84720  
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## 2. Proposed Community Development Project Area Boundaries (SunEdison Phase I Community Development Project Area) [Utah Code Ann § 17C-4-103(1)]

The proposed Project Area is located within Iron County, Utah and is approximately 3147.55 acres. A map of the Project Area is attached as Exhibit A and incorporated herein (the "Project Area Map").

The area proposed to be contained within the Project Area is as follows:

Project Designation	Parcel Number	Current Owner Name	Acreage	2013 Market Value	2013 Taxable Value
Fiddlers Canyon Site #1	E-0113-0000-0000	Iron Springs Development LLC, INT. & Frank W. & Celestia A. Nichols, J/T.	526.29	\$499,985	\$7,035
Fiddlers Canyon Site #2	E-0142-0000-0000	Frank & Celestia A. Nichols	35.27	\$3,800	\$565
Fiddlers Canyon Site #3	SA-E-4509-0000-0000	Fiddlers Canyon Development Special Assessment E-4509-SA	137.80	\$13,780	\$13,780
Quichapa Sites #1, #2 & #3	E-0213-0214-0000	Jones Land & Livestock Co.	2,544.83	\$947,426	\$77,650

**Fiddlers Canyon Site #1 Legal** NE1/4SE1/4 SEC 17,T35S,R12W, SLM; W1/2; NE1/4; N 38 AC OF NE1/4SE1/4; W 38 AC OFSW1/4SE1/4 SEC 18,T35S,R12W, SLM; ALSO COM AT SW COR NW1/4SE1/4 SD SEC 18; N 80 RDS; E 80 RDS; S 76 RDS; W 4 RDS; S 4 RDS; W 76 RDS TO POB; LESS E-113-1, E-113-2, E-113-3 & E-113-4; EXCPT THEREFR FOLLOW DESC REC BK 790/50; EXCL THEREFR PROP LA & SL RR CO; EXCPT THEREFR PART LYING W/IN EXIST CNTY RD R/W; SUBJ EASE DESC REC BK 1027/1311 & BK 1027/1314; SUBJ TO LAND AGREEMENT DESC REC BK 1050/1345; LESS E-113-5. SUBJ TO WTR WELL EASE DESC REC BK 1138/1763; SUBJ TO R/W EASE DESC REC BK 1166/407; LESS E-113-RD.

**Fiddlers Canyon Site #2 Legal** LOT 10, SEC 30, T35S,R12W, SLM

**Fiddlers Canyon Site #3 Legal** IRON SPRINGS MINING DISTRICT IRON SPRINGS IRON PLACER NE1/4NE1/4, N1/2S1/2NE1/4, LOTS 8 & 9, SECTION 29,T35S,R12W, SLM TOTAL ACRES 137.80 REFER TO 9011153 S-667

**Quichapa Site #1 - 3 Legal** S1/2NW1/4, SW1/4 SEC 15; S 213 1/3 RDS SEC 16; S1/2 SEC 17; ALSO COM 106 2/3 RDS S OF NE COR SEC 17; S 53 1/3 RDS TO E1/4 COR SEC 17; W 160 RDS TO SW COR NE1/4 SEC 17; N 1839 FT; S54°34"E 1637.5 FT; E 80 RDS TO POB; S1/2 SEC 18 (ALSO DESC AS LOTS 2 & 3, E1/2SW1/4, SE1/4 ALL IN SEC 18); E1/2 SEC 19; ALL SEC 20; NW1/4 SEC 22 & COM AT NE COR SEC 29 & SEC 30 & W 480 RDS TO N1/4 COR SEC 30; S 892 FT; NE'LY 1007 FT TO PT 395 FT S & 857 FT E OF N1/4 COR SEC 30; NE'LY 7063 FT TO PT 310 FT S OF POB; N 310 FT TO POB; EXCEPT THEREFR: BEG ON AN EXIST FENCE N0°14'30"W 882.77 FT ALG 1/16 LN FR SW COR NE1/4NE1/4 SEC 30; N88°34'53"E ALG SD FENCE 100 FT; N0°14'30"W TO S LN OF HWY U-56; S58°43'54"W ALG SD HWY TO AN EXIST FENCE LN; N88°34'53"E 235.92 FT ALG SD FENCE LN TO POB; ALSO EXCEPT THEREFR: BEG AT PT



S0\*19'51"E 363.56 FT ALG 1/4 SEC LN & N88\*34'35"E 66.01 FT FR N1/4 COR SEC 29; N0\*19'51"W 220 FT; N 88\*34'55"E 220 FT; S0\*19'51"E 220 FT; S88\*34'55"W 220 FT TO POB; SUBJ TO EXIST R/W FOR RDS & HWYS (CNTY RDS & STATE HWY U-56) ELECTRIC POWER EASE IN FAVOR OF CAL-PAC UTIL (NOW UTAH POWER & LIGHT) (LOC SEC 15,16,17,18,19,20,22,29,T36S,R12W, SLM) WTRLN EASE IN FAVOR OF CEDAR CITY CORP IN SEC 20 & 29; SUBJ TO R/W TO CEDAR CITY CORP REC BK 288/104;.SUBJ TO R/W BK 429/771; SUBJ TO EASE PACIFICORP; UTAH POWER & LIGHT REC BK 470/189; EXCL E-213-1, E-213-2; SUBJ TO U/G R/W EASE DESC REC BK 1148/1575.

Legal descriptions pulled from the Iron County.net records search on Dec. 9, 2013.

### **3. Summary of Existing Land Use, Principal Streets, Population Densities and Building Intensities [Utah Code Ann § 17C-4-103(2)]**

#### **Existing Land Use Map**

A map of existing zoning in the Project Area is included as Exhibit "B" and is incorporated herein (the "Zoning Map"). A map indicating the layout of principal streets serving the area is included as Exhibit "C".

The land included in the Project Area is zoned Agricultural 20 (A-20) and Industrial. The Fiddlers Sites 1, 2 & 3 are located within areas zoned industrial while Quichapa Sites 1, 2 & 3 are within areas zoned A-20. The principal access for Fiddlers sites from Interstate 15 is to head west on UT – 56, turn right onto Iron Springs Rd. The principal access for the Quichapa sites from Interstate 15 is to head west on UT – 56 to Quichapa Lake. Fiddlers Sites and Quichapa sites are roughly 7 miles from Interstate 15.

**General Description of surrounding property** – Fiddlers Sites 1, 2 & 3 are within Iron County's industrial zone which provides opportunities for heavier industrial activities than allowed in the light industrial district, to provide economic stability and opportunity and to provide employment opportunities for county residents. Solar projects are allowed within Industrial zones with the approval of a conditional use permit. Quichapa Sites 1, 2 & 3 are within the Agricultural 20 Zone which is provided and designed to protect and preserve lands suited for farming, ranching, the production of food and fiber, open recreational parks, services or related purposes and services providing rural lodges and rural estate living, and to encourage open areas for the protection from encroachment of incompatible uses. Other purposes of this district include protection of the economic base of the county and the protection of environmentally sensitive lands, such as areas subject to flooding, wetlands, unstable soils and areas with steep slopes. The permitted and conditional uses for the A-20 zone are intended to be compatible with agricultural uses while encouraging economic growth and reasonable options for the use of private property. The district discourages intense uses due to lack of required services and the potential cost to Iron County residents of providing the services necessary to support higher density or more intense development and activities. Solar projects are often co-located in agriculture zones with a conditional use permit, as the systems are not detrimental to adjacent farming operations and do not impose any public health, safety or general welfare issues.

**Population Density in the Project Area** – The Project Area does not contain any residential housing units.

**Building Density in the Project Area** - There are no structures located within the project area.

**Impact of Community Development on Land Use, Population and Building Density** – No change in zoning is required and the proposed project is consistent with area usage. Industrial and A-20 allows for solar projects through the approval of a conditional use permit. Solar photovoltaic (PV) consists of multiple photovoltaic modules or solar panels to convert sunlight into usable electricity. This project will not have a significant impact on the surrounding properties, roads or other infrastructure.

#### **4. Standards That Will Guide Community Development [Utah Code Ann § 17C-4-103(3)]**

**Standards Guiding Development** - Development in the Project Area will be subject to appropriate elements of the Iron County Building Permit Checklist, the Iron County Conditional Use Permit and all applicable Iron County Ordinances. Development/expansion proposals shall be accompanied by site plans, development data and other appropriate material clearly describing the extent of development/expansion proposed, and any other data that is required by Iron County's Building and Zoning Department.

The Iron County Planning Commission may grant a conditional use permit if it finds:

- 1) The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity and will not be detrimental to public health, safety or general welfare.
- 2) The proposed use will be located and conducted in compliance with the goals and policies of the Iron County General Plan and the purposes of this title and the land management code.
- 3) That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.
- 4) Does not propose any construction on any critical lands.

#### **5. Description of How Purposes of the Act Will be Attained [Utah Code Ann § 17C-4-103(4)]**

Title 17C of the Utah Code contains the following definition of "Community Development":

"Community development" means development activities within a community, including the encouragement, promotion, or provision of development. [Utah Code Ann. § 17C-1-102 (16)]

The creation of the Proposed SunEdison Phase I Community Development Project Area furthers the attainment of the purposes of Title 17C by addressing the following objectives:

- **The provision of development that enhances economic and quality of life basis** -The proposed Project will provide numerous economic and community benefits including the generation of 60 construction jobs per site and 13 FTE after full build out of Phase I.

- **Associated business and economic activity stimulated by the development** – This Project will meaningfully enhance Iron County’s property tax base. The direct and indirect impact provided by construction jobs to the existing economy in Iron County is significant. As of August 2014, Iron County has an unemployment rate of 5.9% or 1.2% higher than the State of Utah. Iron County also has one of the highest persons below poverty level rate in the state with a rate of 20.7%. Businesses that should benefit include hotels, restaurants and suppliers and vendors servicing the proposed new facility.

The Project will:

- Enhance employment and income opportunities for community residents by offering employment opportunities within the County.
  - Increase the diversity of the tax base and increase the resources available for performing governmental services.
  - Encourage and support the use of Iron County’s natural resources.
  - Support and encourage appropriate public and private development efforts in the community.
- **Provision of public infrastructure** – No additional public infrastructure is required for the development of this Project.

## **6. Conformance of the Project Area with the Community’s General Plan [UCA § 17C-4-103(5)]**

The SunEdison Phase I Project Area is consistent with the Iron County General Plan: Iron County General Plan, Adopted October 10, 1995.

The Iron County Vision is to maintain a quality of lifestyle for all present and future residents of Iron County, grounded upon economic vitality, while managing natural resources and preserving scenic beauty, traditional values and stability. SunEdison Phase I will invest in this Project, creating economic development opportunity while using the Iron County’s renewable resources.

The following are General County Goals found in the General Plan that relates to the development of the SunEdison Phase I Community Development Area:

1. To retain control of issues which effect the County’s custom, culture and economic stability.
2. To maintain economic integrity and vitality.
3. To manage natural resources in order to insure the viability of the resources.
4. To keep a clean environment.

**Goals and Policies: Business and Economic Activity Diversification.** Iron County will encourage a balanced mix of economic activity, including but not limited to: agriculture; agri-business, mining; timber and wood products; manufacturing; commercial; retail; cultural; entertainment; service industry; and government services uses which result in a diversified, stable, and environmentally sound local economic base.

**Zoning Ordinances** – The Project Area is currently within areas zoned Industrial and A-20. The Industrial Zone allows for solar projects and should provide economic stability and employment opportunities for county residents. A-20 is provided and designed to protect and preserve lands suited for farming, ranching, the production of food and fiber, open recreational parks, services or related purposes and services providing rural lodges and rural estate living, and to encourage open areas for the protection from encroachment of incompatible uses. Other purposes of this district include protection of the economic base of the County and the protection of environmentally sensitive lands, such as areas subject to flooding, wetlands, unstable soils and areas with steep slopes. The permitted and conditional uses are intended to be compatible with agricultural uses while encouraging economic growth and reasonable options for the use of private property. The district discourages intense uses due to lack of required services and the potential cost to Iron County residents of providing the services necessary to support higher density or more intense development and activities. Solar projects are allowed within Industrial and A-20 zones with a conditional use permit.

**Building Code** - The Project enhancements will be constructed in accordance with all applicable Iron County building codes.

The proposed community development Project Area is consistent with and conforms to the General Plan. Job creation and economic development within the Project Area will increase the primary revenues for taxing entities in the area.

## **7. Specific Project Outline and Its Potential for Job Creation [UCA § 17C-4-103(6)]**

The formation of the Project Area will provide Iron County with job creation opportunity by creating 60 short term construction jobs per site, and 13 FTE. The proposed Project will result from the provision of incentives to the developer as specified in the Project Area Plan. Ground breaking for the SunEdison Phase I Project will take place in November 2014 for Fiddlers Sites 1 and 2 and in January 2015 for Fiddlers Site 3 and Quichapa sites 1, 2 & 3. Projected Commercial Operations Date (COD) is either May or November of 2015. The capital expenditure associated with the Project is approximately \$40,000,000.

## **8. Selection of Developer [UCA § 17C-4-103(7)]**

The Agency does not own or control any property within the Project Area. The Agency desires the owners of real property in the SunEdison Phase I Community Development Project Area to partner with SunEdison to develop the property and the Project. The Agency anticipates that owners will take advantage of the opportunity to develop property as outlined in this draft Project Area Plan.

SunEdison is a trusted partner for innovative, intelligent energy solution around the globe. SunEdison develops, finances and operates solar energy projects around the world. SunEdison is publicly traded on the NYSE (ticker: SUNE), with a \$3.5B market cap.

SunEdison has developed more than 1.2 GW of solar energy capacity with over 1,000 operational sites while delivering 3,653,728 MWh of electricity. SunEdison was the first solar energy provider to raise more than \$3 billion in project financing and first solar energy services provider to commercialize the Power Purchase Agreement, eliminating capital outlay from customers

## **9. Reasons for Selection of Project Area [UCA § 17C-4-103(8)]**

The Project Area was selected by the Agency due to the immediate opportunity to strengthen the County's economic base.

Additionally, the Agency selected the Project Area for the following reasons:

- 1) The recognition that the Project Area needs assistance to attract the investment of private capital.
- 2) To enable the Project Area to be competitive in a competitive site selection process.
- 3) For the opportunity to initiate a public/private partnership to improve this area of the County.

## **10. Description of Physical, Social/Economic Conditions Existing in the Project Area [UCA § 17C-4-103(9)]**

A community's socioeconomic status is based on family income, education level, occupation and financial resources. Amongst Utah's counties, Iron County has one of the highest rates of poverty and lowest median household income statistics in the state. Community development project areas encourage development in areas that are underutilized, blighted or under economic stress and will have a positive impact on the physical environment, as well as the socioeconomic characteristics.

1. Physical Conditions. The Project Area consists of approximately 3147.55 acres of privately held land, as shown on the Project Area map. The Project Area consists mainly of vacant land, with some agricultural use with one parcel currently listed as a mining claim.
2. Social Conditions. The Project Area does not contain any residential development. The majority of the land in the Project Area is vacant.
3. Economic Conditions. There is not currently any substantial economic activity occurring in the Project Area.

The SunEdison Phase I CDA will increase capital investment in the area, encourage other development and offer quality employment for County residents.

## **Tax Increment Benefits Analysis and Summary of Tax Incentives Offered [UCA § 17C-4-103(11) and 17C-4-103(11)]**

The following are the requirements of a benefit analysis as established by Utah Code Ann. § 17C-4-103 to be included in a Community Development Project Area Plan:

*(11) include an analysis or description of the anticipated public benefit to be derived from the community development, including:*

- (a) the beneficial influences upon the tax base of the community; and*
- (b) the associated business and economic activity likely to be stimulated;*

Subject to the establishment of the Project Area, the following describes tax incentives which the Agency intends to offer within the Project Area to a company in consideration of the development of a solar project. The Agency intends to negotiate with the taxing entities a voluntary agreement to provide property tax increment of 50% for 10 years to be paid to the Agency for community development Project Area purposes. Payment to the developer shall be made through a development agreement between the Agency and the developer. The source of funds for reimbursement will be tax increment revenues generated through investment in real and personal property in the Project Area by the Project. The projections for net new tax revenue generation within the Project Area, and the associated tax increment projections, involve certain development assumptions, forecasting techniques, and other factors.

The primary purposes for the Agency offering an incentive are to:

- 1) Attract new business development in a weak economic climate.
- 2) Stimulate job growth opportunity and create jobs.
- 3) Stimulate private investment within the Project Area.

### **ANTICIPATED PUBLIC BENEFIT**

**Beneficial Influences Upon Community Tax Base** – The beneficial influence on the tax base will happen through an increase of the property tax base of the Project Area. These increased revenues will come from the property values associated with the Project's development. As the enhancements occur, property tax revenue will increase and jobs will be created. Benefits will also derive from the addition of up to 60 temporary construction jobs per site and 13 Full Time jobs in the area. Job growth in the Project Area will result in increased wages which will result in more local purchases which will benefit existing businesses. Job growth will also result in increased income taxes paid. Business growth will generate corporate income taxes. Businesses that should benefit include hotels, restaurants, suppliers and vendors servicing the proposed project.

The capital expense for this project is estimated at approximately \$40,280,091.

There will also be a beneficial impact on the community through increased construction activity in the area especially at a time when the construction sector of the economy is struggling. Positive impacts will be felt through construction wages paid, as well as construction supplies purchased locally.

**2013 Base Year Tax Valuation** – In order to calculate the net new taxes generated by project expansion within the Project Area – or tax increment, the existing tax base within the Project Area has to be taken into account. According to the Iron County Assessor's Office, the current total assessed value as of 2013 is \$68,239.64. It is proposed that the base year be 2013 with reimbursement beginning with tax year 2016.

**Purpose of Utilizing Property Tax Revenues** – Once qualified, the company will be reimbursed for costs incurred in preparing the site per the terms and conditions of this plan and the adopted interlocal agreement.

**Net Benefits** – The net benefits from the proposed Project Area are commensurate with the improvements that need to be funded. This report assumes that the benefits ignore the present revenue situation and only include the incremental costs and revenues the project generates. The development will benefit all taxing agencies within the Plan Area.

## **1. Source of Incentive Funds to Property Owner**

This Plan utilizes the property tax increment generated by the development of the proposed Project within the boundaries of the Project Area. The Project Area proposes to utilize tax increment funds from all participating taxing entities including Iron County, the Iron County School District and the Central Iron County Water Conservancy District. These funds will be used to offset a portion of the costs associated with the development of the Project.

Incremental Incentive Analysis from the Project (may be actually higher or lower, depending on assessed values):

- Projected 10 Year Total tax increment is \$3,283,347.31
- Projected 10 Year incentive at 50% is \$1,641,637.66
- Projected increase in revenue to the taxing entities over the 20 year life of the project is \$2,979,929.05
  - Iron County - \$494,877.71
  - Iron County School District - \$1,681,371.60
  - Iron County Unincorporated Service District #2 - \$643,111.05
  - Central Iron County Water Conservancy District - \$160,568.69

The total assessed value of the property within the Project Area is currently \$68,239.64 a value that will increase with enhancements to the proposed Project Area.

## **2. Project Area Budget**

The creation of a community Development Area does not require a Taxing Entity Committee and a Project Area budget is optional. The budget for this project area will consist of revenues generated by new tax increment and expenses paid to the project equaling tax increment if all performance milestones have been met. If milestones have not been met, the tax increment will be distributed back to participating taxing entities.



## **Exhibits**

**Exhibit A**

**Project Area Map**

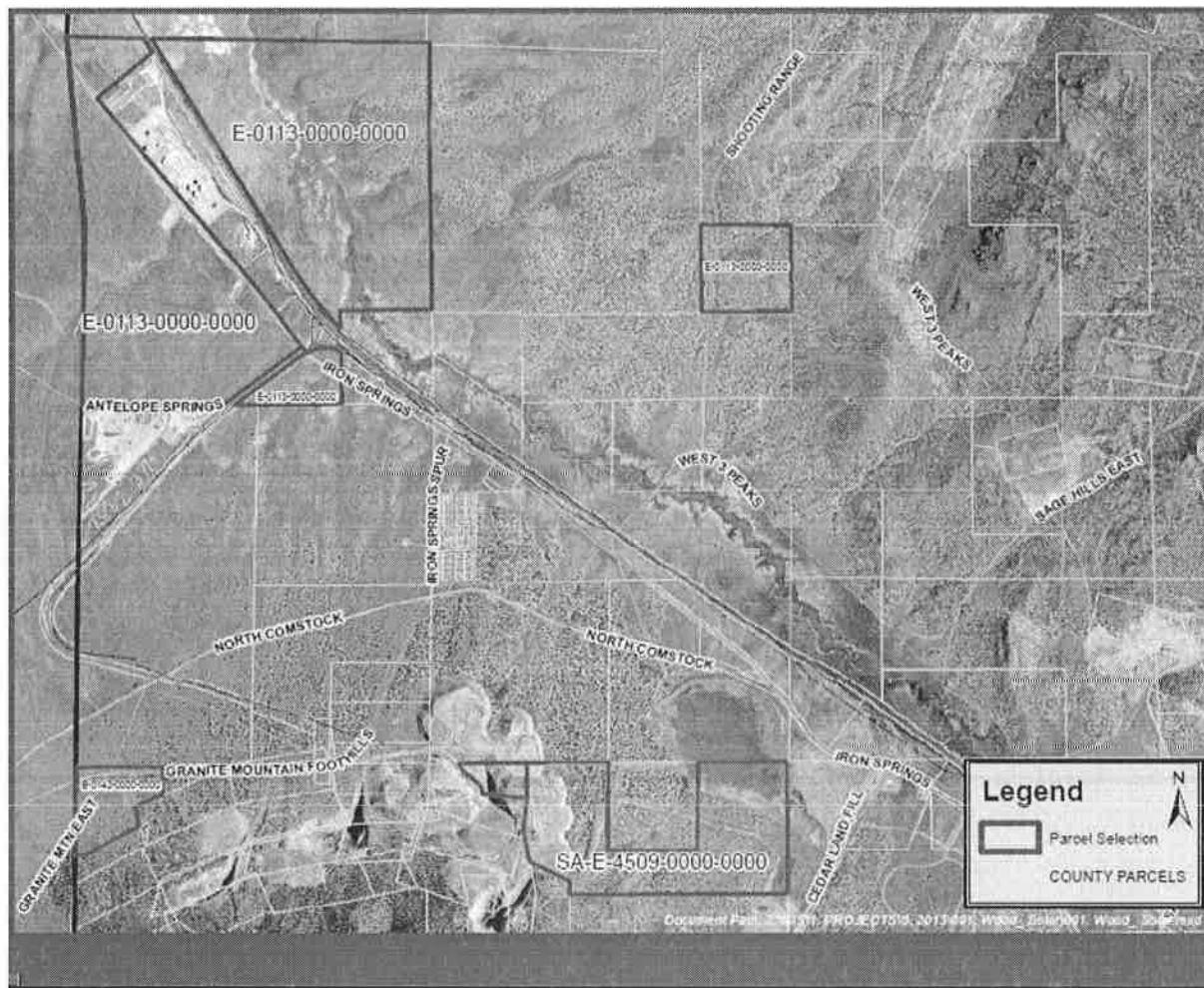
**Exhibit B**

**Zoning Map**

**Exhibit C**

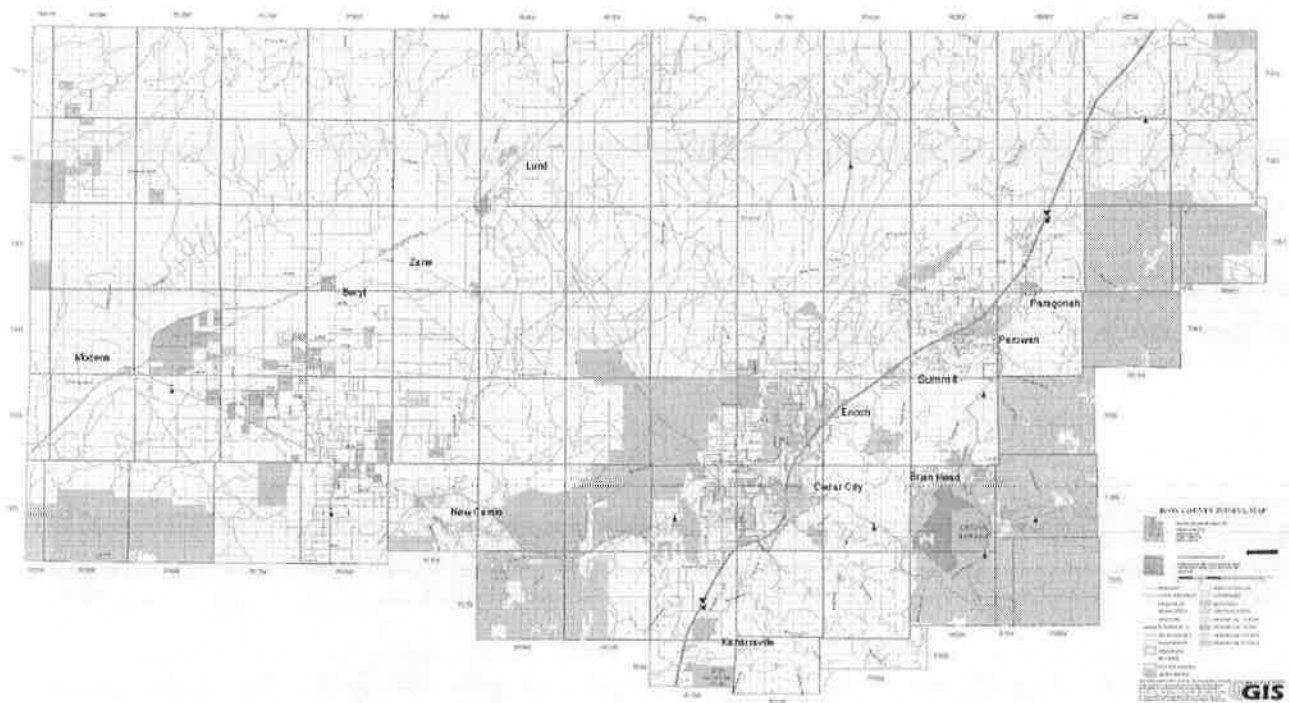
**Principal Streets**

## Exhibit A

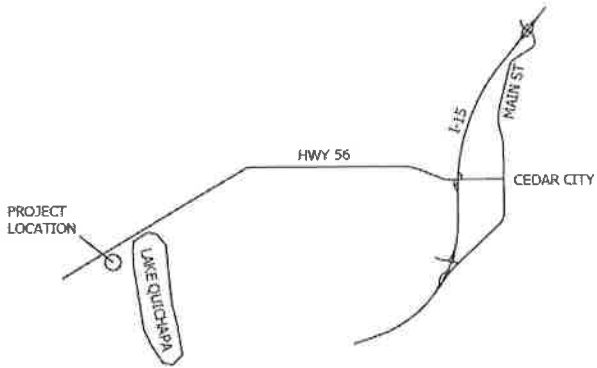




## Exhibit B

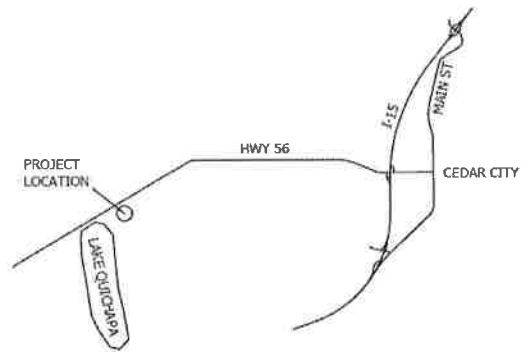


## Exhibit C



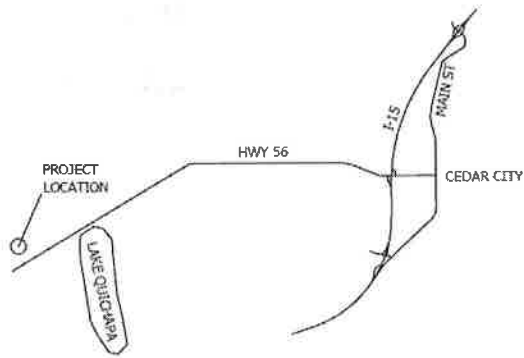
VICINITY MAP  
SCALE: N.T.S.

Quichapa Site 1



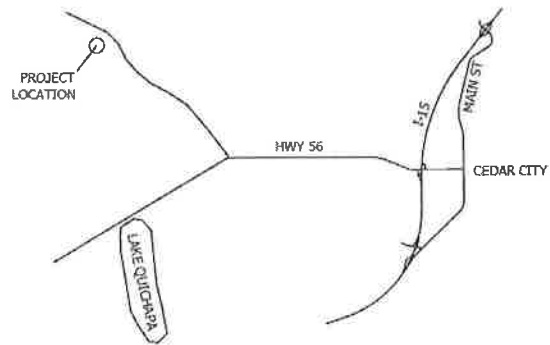
VICINITY MAP  
SCALE: N.T.S.

Quichapa Site 2



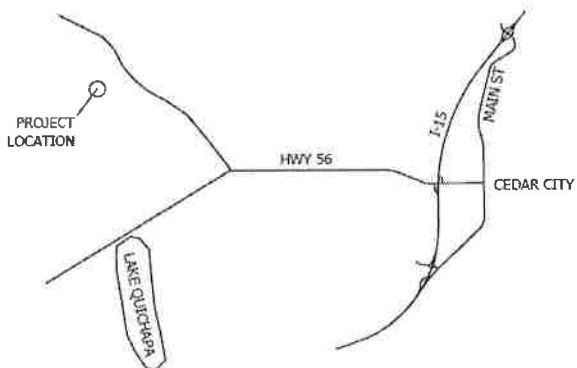
VICINITY MAP  
SCALE: N.T.S.

Quichapa Site 3



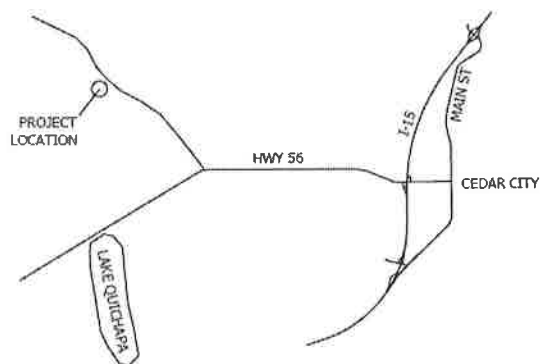
VICINITY MAP  
SCALE: N.T.S.

Fiddlers Site 1



VICINITY MAP  
SCALE: N.T.S.

Fiddlers Site 2



VICINITY MAP  
SCALE: N.T.S.

Fiddlers Site 3



**City Council  
AGENDA ITEM #9**

**INFORMATION SHEET**

**TO:** Mayor and City Council

**FROM:** Cedar City – Iron County Office of Economic Development, Brennan Wood

**DATE:** January 22, 2014

**SUBJECT:** Consider signing a MOU with SUTREC

**DISCUSSION:**

SUTREC (Southwest Utah Renewable Energy Center) has asked the Cedar City – Iron County Office of Economic Development to participate as a partner. The mission of SUTREC is to showcase and promote renewable energy in the resource-rich area of Beaver County and Southwest Utah. SUTREC Partners cooperate to advance renewable energy education, training, research, technology and production leading to high-skill, high-wage employment, career and entrepreneurial opportunities. Since alternative energy is an economic development cluster of the Cedar City – Iron County of Economic Development, it makes sense to partner on these initiatives.

From the Cedar City – Iron County Office of Economic Development Competitive Analysis and Strategic Recommendations:



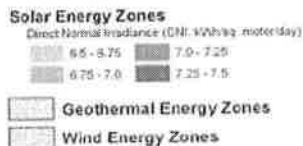
**Renewable Energy**

**Bases of Cluster**

- Access to Southwest Utah Renewable Energy Center (SUTREC)
- Presence of Utah Science Technology and Research initiative (USTAR)
- Relatively low land costs.
- Renewable energy and transmission training opportunities through Southwest Applied Technology College
- Excellent renewable energy resources.

**Strategic Recommendation**

1. Collaborate with Southwest Utah Renewable Energy Center
  - a. Attend industry specific forums and shows to network, recruit and build relationship with industry leaders such as Alternative Energy World or Wind Power.
2. Partner with USTAR and the Office of Energy to analyze local Alternative Energy Ordinances.
  - a. Propose updated and business friendly ordinances that support renewable energy projects.
3. Attend Utah's Office of Energy annual summit to build local, state and regional relationships.



Attached: MOU





**MEMORANDUM OF UNDERSTANDING**  
**FOR THE**  
**SOUTHWEST UTAH RENEWABLE ENERGY CENTER**

AUGUST 2011

I. PARTICIPANTS TO THIS MEMORANDUM OF UNDERSTANDING (MOU):

1. Beaver County
2. Beaver County School District (BCSD)
3. Cedar City Iron County Office of Economic Development
4. Department of Workforce Services (DWS)
5. Milford City
6. Milford High School (MHS)
7. Southwest Applied Technology College (SWATC)
8. Southern Utah University Business Resource Center (SUU BRC)
9. Southern Utah University- Regional Services (SUU)
10. Utah Office of Energy Development (OED)
11. Utah Science Technology and Research (USTAR)

II. MISSION STATEMENT AND PURPOSES

The mission of SUTREC is:

***“The Southwest Utah Renewable Energy Center (SUTREC) showcases and promotes renewable energy in the resource-rich area of Beaver County and Southwest Utah. SUTREC Partners cooperate to advance renewable energy education, training, research, technology and production, leading to high-skill, high-wage employment, career and entrepreneurial opportunities.”***

- A. As outlined in the mission statement, Partners will work together to forward the purposes and goals of SUTREC as detailed in the SUTREC Annual Work Plan.

III. CREATION OF SUTREC and the STEERING COMMITTEE

- A. The participants hereby join in a partnership that shall be known as the “Southwest Utah Renewable Energy Center,” or alternatively by the acronym “SUTREC.”
- B. Participants shall be known as “Partners.”

- C. SUTREC shall establish a "Steering Committee" consisting of each Partner's duly-appointed representative. Committee members appointed by Partners may be changed at the will of each respective Partner.
- D. The Steering Committee shall annually elect one representative as "Chairperson." The chairperson shall serve for one year and shall conduct Steering Committee meetings and supervise SUTREC activities as directed by the Steering Committee.
- E. The Steering Committee's role is outlined in the SUTREC By-Laws.
- F. The Partners to this MOU recognize that the authorities and responsibilities of each are different and that specific laws, regulations and policies, which pertain to their respective statutes, guide each partner.

#### IV. PARTNERSHIP VALUES

As detailed in the August 2009 SUTREC Charter:

- A. Promote a rational and practical approach to the development of renewable energy resources.
- B. Respect each Partner's unique mission and purpose for participating and recognize their contributions to SUTREC's success.
- C. Committed to cooperatively pursuing the SUTREC mission and supporting each other's individual actions to do so.
- D. Focus our efforts on what is good for the citizenry of Beaver County and Southwest Utah.
- E. Together we can achieve much more than individually.
- F. Open to new Partners and ideas.

#### V. PARTNER ROLES AND RESPONSIBILITIES

- A. The Southwest Applied Technology College shall act as the Fiscal Agent for all SUTREC activities. As the fiscal agent they shall maintain all financial records and process all transactions involving the SUTREC funds.
- B. All fiscally related decisions and transactions shall be made under the direction of the Steering Committee.
- C. To encourage understanding by Partners, each Partner has provided a statement of the purposes and objectives for their participation in SUTREC. These statements are found in the SUTREC By-Laws.

## VI. GENERAL

This Memorandum of Understanding does **not**:

- A. Modify in any way the respective duties, obligations, rights, privileges or immunities of the Partners.
- B. Legally bind any Partner, the continued involvement of each Partner being wholly voluntary.
- C. Obligate any of the Partners to transfer any funds. Specific work projects or activities that involve the transfer of funds, services or property among the various agencies and offices of the Partners will require execution of separate agreements.
- D. Restrict the Partners from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals.
- E. Modify existing authorities under which the Partners currently operate.

## VII. MEETINGS AND OTHER ACTIVITIES

- A. The Steering Committee shall hold regular meetings determined by the Steering Committee and convened by the Chairperson.
- B. Minutes of all SUTREC meetings shall be maintained and made available.
- C. Meeting guidelines including voting shall be followed as outlined in SUTREC's By-Laws.

## VIII. STAFF

- A. The Steering Committee may hire staff to the extent reasonably required to accomplish SUTREC's purposes, but may do so only in a manner consistent with funding available.

## IX. FUNDING

- A. While this Memorandum of Understanding cannot and does not require the Partners to allocate funds for the operation of SUTREC, the Partners may voluntarily agree to provide funding or in-kind contributions to SUTREC to facilitate its effective operation.
- B. Each Partner shall bear the expenses incurred by its appointed member(s) in connection with their service with SUTREC.
- C. A review of SUTREC's expenditures and operations shall be conducted from time-to-time by the Southwest Applied Technology College, which shall act as SUTREC's fiscal agent.

## X. UTAH GOVERNMENTAL IMMUNITY ACT

- XI. The parties to this MOU are governmental entities and agree to be bound by the terms and limitations set forth by the Utah Governmental Immunity Act, U.C.A. section 63G-7-101 et.seq.

**XII. INDEMNIFICATION**

- A. Inasmuch as SWATC is acting as the fiscal agent for SUTREC, the individual remaining parties to this agreement agree to indemnify and hold harmless SWATC, its employees, agents and volunteers from liability resulting from the negligent acts or omissions of the employees, agents, or assigns for each individual remaining party so that each party to this agreement is only indemnifying SWATC for the negligent acts or omissions of its employees, agents, or assigns pursuant to the obligations of this agreement. The remaining parties shall not hold SWATC harmless from claims arising out of negligence or willful malfeasance of the SWATC, its employees, agents, or any person or entity not subject to the remaining parties supervision or control.

**XIII. AMENDMENTS**

- A. Any change or amendment to this Memorandum of Understanding may be made only with the consent of all parties hereto.

**XIV. COMMENCEMENT/EXPIRATION/TERMINATION**

- A. This MOU takes effect upon the signature of the Partners and shall remain in effect for five years from the date of execution. This MOU may be extended or amended upon request by one of the Partners and the subsequent concurrence of all remaining Partners.
- B. Partners may terminate their participation in this MOU at any time upon written notice to the Steering Committee.

**XV. SIGNATURES**

Signed by representatives of the specific Partners on the dates listed below;

**BEAVER COUNTY**

By:

Title:

Signature:

Date Signed:

**BEAVER COUNTY SCHOOL DISTRICT**

By:

Title:

Signature:

Date Signed:

**DEPARTMENT OF WORKFORCE SERVICES**

By:

Title:

Signature:

Date Signed:

**MILFORD CITY**

By:

Title:

Signature:

Date Signed:

**MILFORD HIGH SCHOOL**

By:

Title:

Signature:

Date Signed:

**SOUTHWEST APPLIED TECHNOLOGY COLLEGE**

By:

Title:

Signature:

Date Signed:

**SOUTHERN UTAH UNIVERSITY-BUSINESS RESOURCE CENTER**

By:

Title:

Signature:

Date Signed:

**SOUTHERN UTAH UNIVERSITY- REGIONAL SERVICES**

By:

Title:

Signature:

Date Signed:

**UTAH SCIENCE TECHNOLOGY AND RESEARCH- USTAR**

By:

Title:

Signature:

Date Signed:

**UTAH OFFICE OF ENERGY DEVELOPMENT**

By:

Title:

Signature:

Date Signed:

**WALTER MAXWELL GIBSON COLLEGE OF SCIENCE AND ENGINEERING**

By:

Title:

Signature:

Date Signed:

**CEDAR CITY IRON COUNTY OFFICE OF ECONOMIC DEVELOPMENT**

By:

Title:

Signature:

Date Signed:







Cedar City  
Festival City USA

# Official Branding and Identity Style Guide

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# Style Guide Introduction

## Purpose of the Style Guide

The purpose of the Cedar City Official Branding and Identity Style Guide is to develop a consistent, appealing, and memorable method of promoting the city along with its departments, divisions, programs, events, and facilities while allowing flexibility for managers to utilize their creativity in developing specific messages.

City publications such as annual reports, maps, guides, advertisements, fliers and brochures must be approved by the city's branding committee prior to printing and distribution. This effort to centralize publication standards is not to stifle creativity or delay the timely dissemination of information, but to insure that we are building the city's brand through quality publications.

## Importance of Branding and Consistency

As difficult as it is to control a brand, style guides are a helpful tool to guide and influence the effectiveness of a brand. This style guide will help us achieve clarity, consistency and brand power. It involves every aspect of a brand's communication execution to every audience imaginable. Brand building is the process of defining what is unique and desirable about an organization's products and services. Every time you make contact with another person (either in person, in writing, on the telephone, or through the media) you are sending a message about your brand. That message can be either positive or negative. Our message should be that we are experts in our respective fields; that we care about the smallest details associated with Cedar City Corporation, and that we want to provide a positive experience for each member of the public that we work with.

It is important that all departments, divisions, and their respective programs, events, and facilities comply with the standards outlined in this style guide. Adherence to these standards will strengthen our communication efforts with the public and elevate the city's reputation as a professional, responsible and reliable organization.

## Branding Committee

Cedar City's branding committee will approve designs for signage and other brand implementation before production. The branding committee consists of the Mayor, the City Manager, a representative from the City Council, the Economic Development Director, the Economic Development Coordinator, and the Leisure Services Director.

# The Logo

## Logo Design

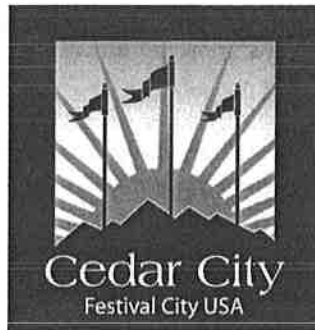
The logo is the image embodying an organization. Because logos are meant to represent a brand or identity and foster their immediate customer recognition, it is important to be consistent with logo design and usage. It is counterproductive to frequently redesign logos.

Cedar City's new logo uses elements from the previous logo, with the following changes:

- "Cedar City" is the most prominent text in the logo. The slogan, "Festival City USA" is secondary. In departmental usage, the department name may take the place of "Festival City USA."
- The shape of the official square logo is now more square than rectangular.
- An official round logo is for use on signage, apparel, vehicles, and in other uses as approved.
- The blue color of the logo is now a more neutral blue. The gradation from orange to yellow is more subtle than on the previous logo.
- All text in the new logo is in white. The fonts used in the City's logo are now standardized. "Cedar City" is Americana Bold, and "Festival City USA" is Myriad Pro Bold. Americana BT Extra Bold is ONLY used by the city in this usage, and on signage without the complete logo when approved.



*Previous  
Cedar City Logo*



*Official Square  
Cedar City Logo*



*Official Round  
Cedar City Logo*

## Logo Standards and Guidelines

The Cedar City Logo is the entry point to the brand. It is essential to use it correctly each time to represent Cedar City properly. There are countless ways to misuse the Cedar City logo, but what it all boils down to is don't change the logo in any way.

- Don't change the colors.
  - Don't alter the text or the typefaces.
  - Don't stretch or distort the logo.
  - Don't apply effects to the logo, (such as embossing, drop shadows, etc.)
  - Don't rotate the logo.
- 
- Just don't mess with it.

These rules apply to all asset and department logos as well.

## Other Approved Logos

### Gray scale Logos

In non-color applications, these are the approved gray scale logos.



*Official Square  
Cedar City Logo  
Gray scale*



*Official Round  
Cedar City Logo  
Gray scale*

### Other Approved Logos

The following logos are currently in use and will continue to be used.



#### Cedar Ridge



#### Golf Course

\* Currently, the golf course uses this logo, so it is included on the list of approved logos. This logo will be replaced in the near future.



### Non-Approved Logos

Below are examples of former city logos. None of these are approved for use in any way.

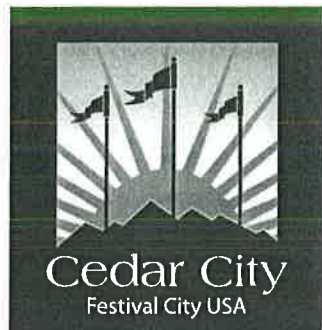




# Logo Usage

## Preferred Logo

This is the preferred logo to be used on all marketing and collateral material unless specified otherwise in this guide.



*Official Cedar City Logo*

## Spacing

Use at least the height of the "e" in Cedar City from the logo as the measure for clear space around the entire logo.



## Minimum Height

The height of the Cedar City logo should not be smaller than 3/4" (.75") unless there is no other option, such as use on smaller products, such as pens, flash drives, etc.



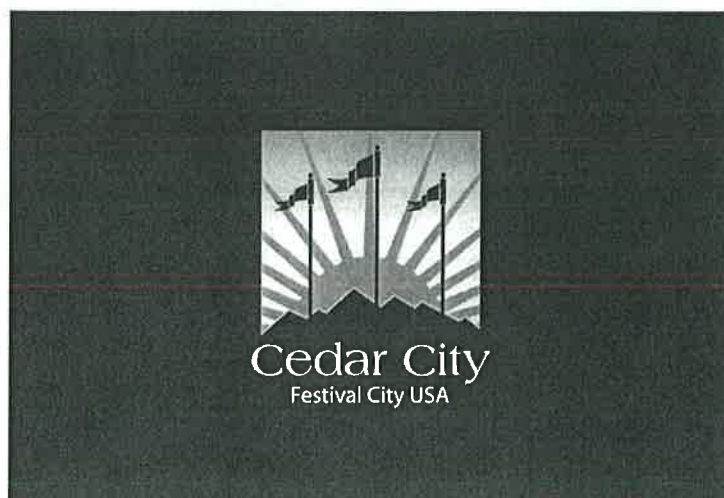
## Shape

The shape of the Cedar City logo should never be altered.

In some cases, the logo may be placed on a field of blue that exactly matches the color of the logo itself. In this case, the outside edge of the logo does not need to be delineated. (*This is only for some uses on banners, signs, etc., as approved.*)



*Standard Use*



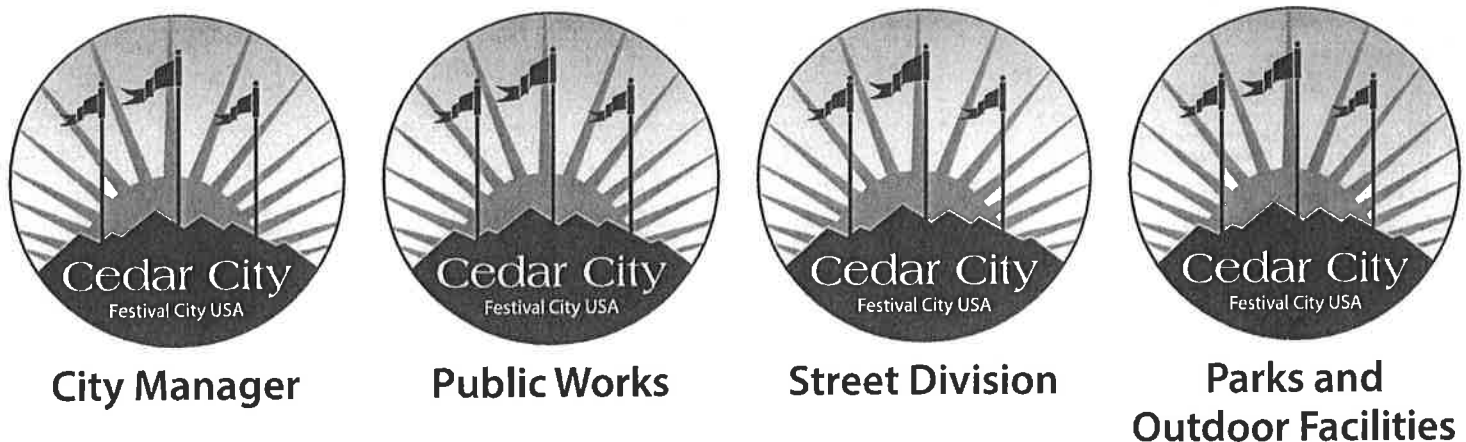
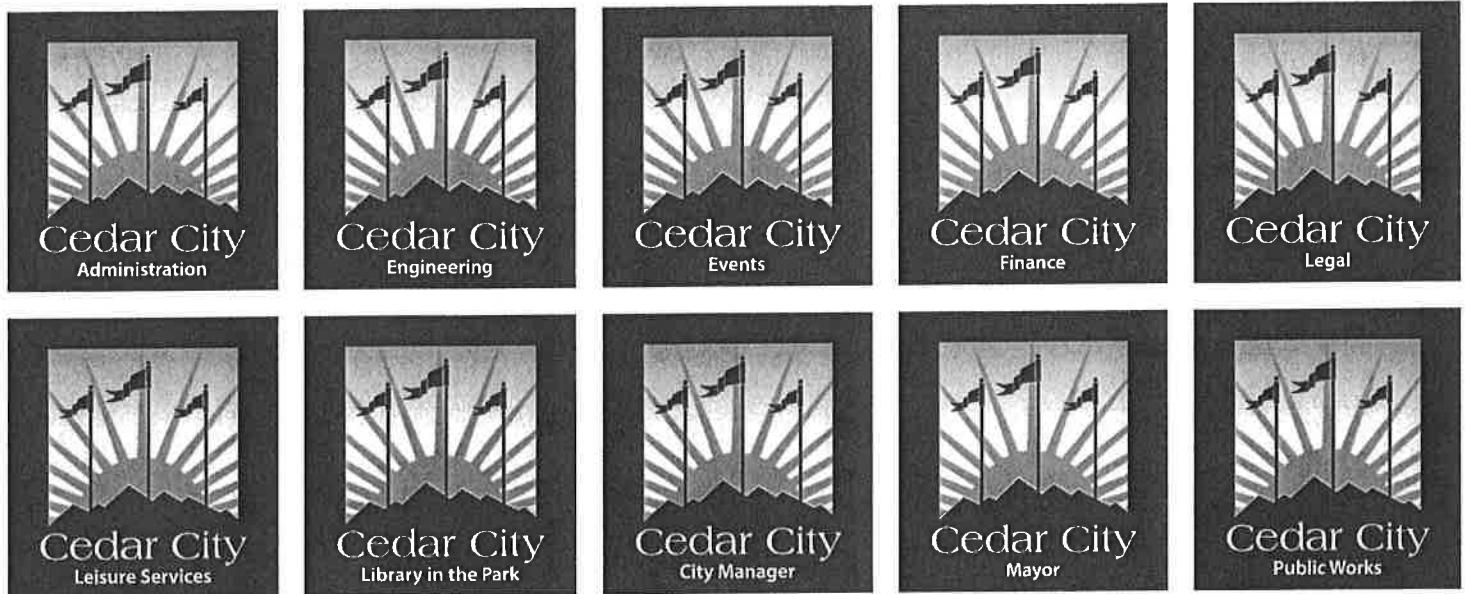
*Exceptional use when approved*

# Departmental Logos

## Departmental Logos

Department Heads are authorized to use departmental logos instead of the Official Cedar City Logos as deemed appropriate. The Official Square Logo standards and guidelines apply to the departmental logos. When departments or divisions are listed with the Official Square Cedar City Logo, the department or division name replaces "Festival City USA" on the logo itself, with the font remaining in the same size as the "Festival City USA" font.

When used with the Official Round Logo, the department or division name is listed beneath the logo as shown below, with the Department name listed in Myriad Pro Upper and Lower Case. In this usage, the capital letter(s) in the division or department name should be the same size as upper case "C" on the Logo as shown below. When the department or division name is so long that the width of the name exceeds the width of the logo, then the department name should be divided into two or more lines of text as shown on "Parks and Outdoor Facilities" below.





## Cedar City

10 North Main Street • Cedar City, UT 84720  
435-586-2950 • FAX 435-586-4362  
[www.cedarcity.org](http://www.cedarcity.org)

### Mayor

Joe Burgess

### Council Members

Ronald R. Adams  
Nina R. Barnes  
John Black  
Paul Cozzens  
Don Marchant

### City Manager

Rick B. Holman

## Letterhead

Cedar City's letterhead features the official square logo in the top left corner, return address and contact info in the center, and city officials in the top right corner. Six department phone numbers are printed across the bottom. This design is an updated version of the city's most current letterhead.

## Envelope

Cedar City's #10 envelope features the official square logo in the top left corner with the return address justified left against it. The type style of the return address is identical to that of the letterhead.

When letters of different sizes are mailed, return address labels may be printed to match the design on the #10 envelope.

Administration  
586-2953

Building and Zoning  
865-4519

Economic Development  
586-2770

City Engineer  
586-2963

Parks and Recreation  
865-9223

Public Works  
586-2912



## Cedar City

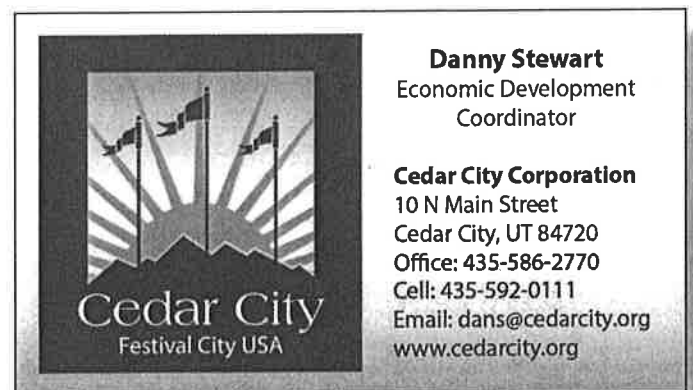
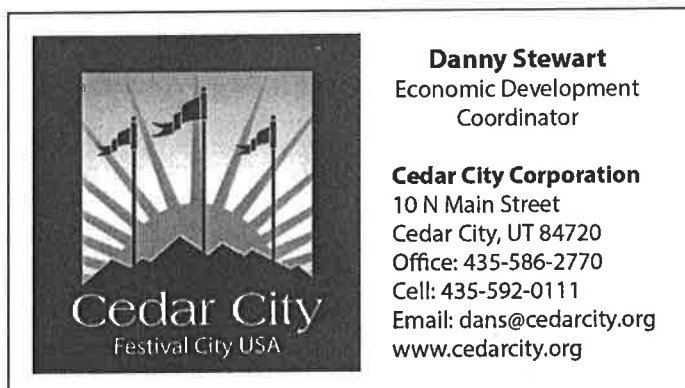
10 North Main Street  
Cedar City, UT 84720



# Business Card Options

## Business Cards

Cedar City's department heads can choose from two business card styles for their employees. The first option features the city's square logo on the left half of the card and contact information on the right half. The employee's name and title are center-justified, and separated by a space from the contact information, which is left-justified. All text is printed in Cedar City's PMS 301 to match the city's logo. The employee's name is in Myriad Pro bold and his or her title is in Myriad Pro Regular. Contact information features "Cedar City Corporation" in Myriad Pro bold and address, phone and email information in Myriad Pro Regular. The other business card is similar to the most recent card in use. The city's square logo is on the left half of the card



# Brand Colors

## Primary Colors

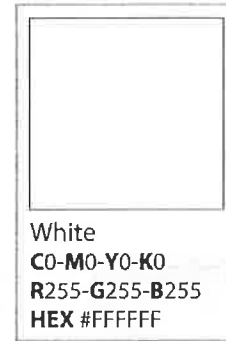
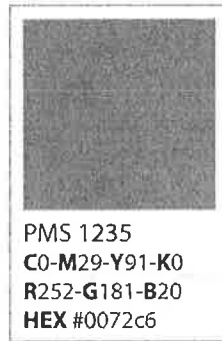
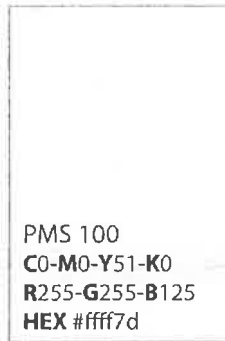
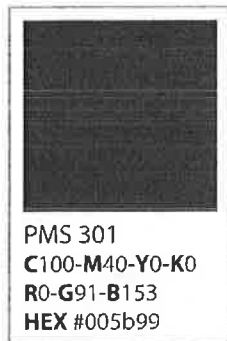
The primary colors of the brand are those used in the logo.

The colors used in the current logo include PMS 300 (blue), PMS 100 (yellow) and PMS 1235 (orange).

PMS 301 is the solid color outlining the logo, including the mountains and the banners

PMS 1235 is the solid color of the sun.

PMS 100 blends from the bottom of the “window” in the logo into PMS 1235 at the top, behind the mountains, banners, and sun.



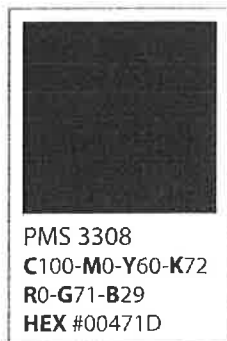
## Secondary Colors

The secondary colors are used on the light posts and other downtown fixtures, and have also been used on some signage.

PMS 3305, or “forest green,” is used on light posts, benches, garbage cans, and other fixtures and for the hardware elements of some signage.

Process Yellow is used as a highlight on downtown fixtures and also on the hardware of some signage.

Neither of these colors are approved for usage on the signs themselves - only for sign poles and brackets as approved.



# Typography

## Typography

Typography is one of the base building blocks of an effective identity program. Strong brands are largely recognizable because of a consistent use of fonts throughout hundreds of different applications. A strong and cohesive company image is not possible without a defined and unique font that helps to define its personality and is easy to read.

## Brand Fonts

The fonts on this page are the main brand fonts. These fonts should be used as often as possible. They must be used for promotional materials and advertising.

## Primary Font

Myriad Pro will be used for body text and display text. Use different weights to differentiate between them in use. If necessary, Arial may also be used.

## Secondary Font

Minion will be used mostly for body text. Light or Roman can be used. Times New Roman may also be used as a body text typeface, but sparingly.

### Primary Font: Myriad Pro

#### Regular

ABCDEFGHIJKLMNOPQRSTUVWXYZ  
abcdefghijklmnopqrstuvwxyz  
1234567890

#### Italic

*ABCDEFGHIJKLMNOPQRSTUVWXYZ  
abcdefghijklmnopqrstuvwxyz  
1234567890*

#### Semi Bold

**ABCDEFGHIJKLMNOPQRSTUVWXYZ  
abcdefghijklmnopqrstuvwxyz  
1234567890**

#### Bold

**ABCDEFGHIJKLMNOPQRSTUVWXYZ  
abcdefghijklmnopqrstuvwxyz  
1234567890**

\*When absolutely necessary, the ARIAL font family may be used in place of Myriad Pro.

### Secondary Font: Minion Pro

#### Regular

ABCDEFGHIJKLMNOPQRSTUVWXYZ  
abcdefghijklmnopqrstuvwxyz  
1234567890

#### Italic

*ABCDEFGHIJKLMNOPQRSTUVWXYZ  
abcdefghijklmnopqrstuvwxyz  
1234567890*

#### Semi Bold

**ABCDEFGHIJKLMNOPQRSTUVWXYZ  
abcdefghijklmnopqrstuvwxyz  
1234567890**

#### Bold

**ABCDEFGHIJKLMNOPQRSTUVWXYZ  
abcdefghijklmnopqrstuvwxyz  
1234567890**

\*When absolutely necessary, the TIMES NEW ROMAN font family may be used in place of Minion Pro.

## Signage Standards

Brand consistency is especially important in the city's signage. Cedar City's properties and venues need to have clear, consistent signs to identify them as city-owned or operated. The city's branding committee will review all proposed signs. Design elements must adhere to the same logo, font and color information as outlined in this guide. In addition to these guidelines, the following considerations are important in the design of signs:

- When possible, signs should incorporate stone pillars designed like the stone-covered pillars at Main Street Park or at the Cemetery wall.
- The Official Cedar City Logo will be a prominent feature of all city signs.
- When the main field of the sign will be blue, the logo will be in full color, and the sign should be outlined in white.
- When the main field of the sign is blue, the outline of the logo does not need to be delineated, and the blue of the logo may blend into the field of the sign.
- Full color logos are not mandatory on signage, but correct fonts are. When signs are more formal, using natural wood or metal elements, the city's branding committee will determine the design.
- The following photographs demonstrate concepts for signage:



*Sign on east Center Street shown with example of new branding.*



*Sign at Cedar Canyon Fields shown with example of new branding*

# Signs

## Historic downtown / Way finding signs

Signs around the City Office Building are designed to match the streetlights, the benches, and the other fixtures in the historic downtown. This style of metal sign pole and bracket is an acceptable alternative to the stone pillars when approved. The poles and brackets should match the green color used in the historic downtown. The signs should follow the guidelines outlined in the style guide.



*Sign near the city office  
shown with example of new branding*



*Example of simple way finding sign*

## Formal signs and plaques

On occasion, the city uses more formal signs or plaques when appropriate. These signs and plaques do not use the full color logo or other city colors, but they use the logo's elements crafted in wood, metal, or other high-quality material. For these signs, approved logos may not be altered, with the exception of the removal of the text "Cedar City" and/or "Festival City USA" from the logo when appropriate. Approved fonts must be used. The city's branding and design committee will approve such signs.



## Clothing standards

When city branding is used on clothing, the apparel used should be high-quality, and should reflect the city's professional image. Both the square and the round logos are approved for clothing. When applying the logo to clothing, it can be silk screened or embroidered. For coloring, use the same guidelines found on page 10.

## Sizing and Placement

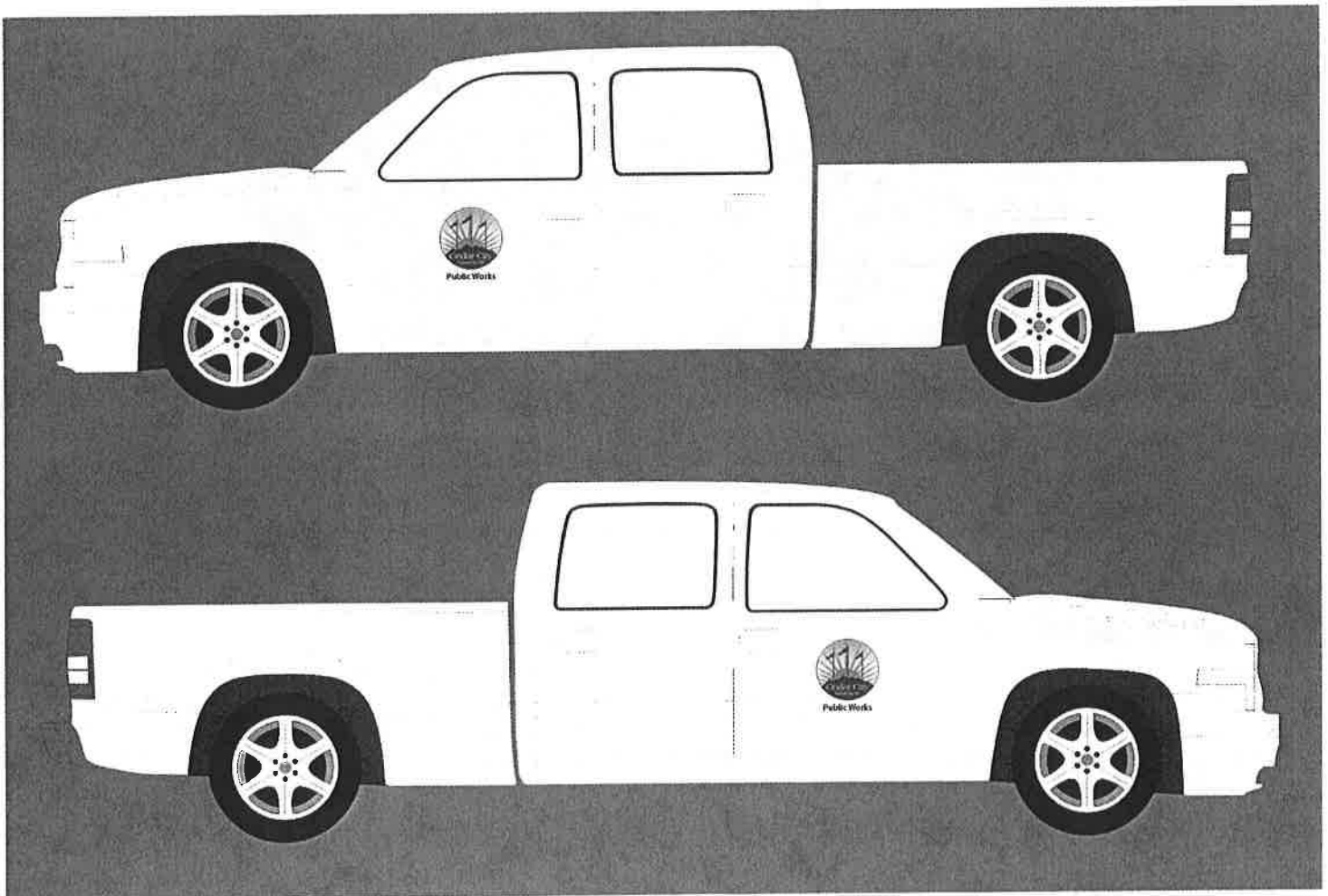
The logo should generally appear on the left breast of a shirt. If the shirt has a pocket, it should be centered above the pocket and not wider than the width of the pocket. When applying text other than the logo, use the typography guidelines on page 11. On occasion, logo size and placement may be altered with approval of the city's branding and design committee.



## Vehicle Branding Standards

With the exception of Cedar City Police and Fire Department vehicles, Cedar City vehicles are white, unless approved. The Cedar City Official Round Logo will be used on city vehicles as directed by Department Heads. The logo should be 10" in diameter on most vehicles, and 12" on larger vehicles. If department or division names are used, they should be designed as described on page 7 of this guide. Logos should be coated with UV protection to keep from fading. If department or division names are used, they should be printed in PMS 301 blue on a clear sheet and be centered below the logo, as shown on page 7.

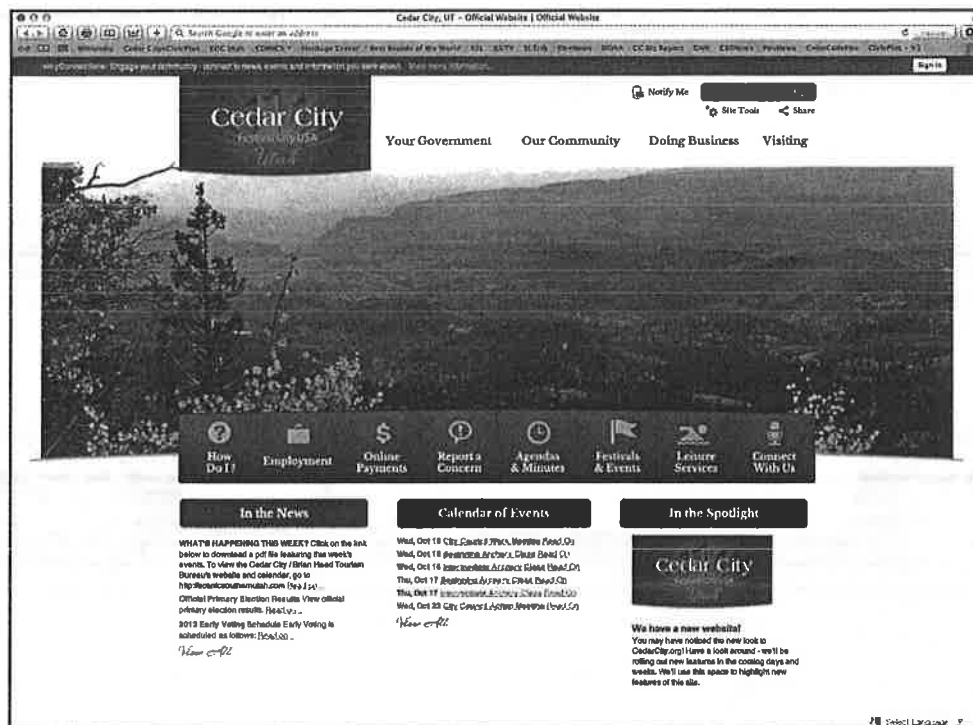
Vehicle identification numbering may be approved by department heads. This identification is in abbreviation of the department and the number of the vehicle in the department's fleet. For example, vehicle #8 in the public works department would be identified with "PW8" in black numbers on the vehicle's fender. This identification should be done in Myriad Pro Bold. The city's Fleet Maintenance Manager will oversee vehicle branding.





## Official Website

Cedar City's official internet presence is <http://cedarcity.org>. For the past eight years, Cedar City has used CivicPlus as its official website product. Maintenance of the website has become the primary responsibility of the Office of Economic Development. Other departments have been given permissions over certain parts of the website. This will continue into the next several years. In 2013, the city's website underwent a complete re-build in order to be able to utilize CivicPlus' most current features. This site went live on October 10, 2013. The standards built into the site's redesign closely match the standards in this Style Guide. Moving forward, pages designed on this site should be true to the design standards established during the redesign and should not be altered without prior approval.



## Official Social Media

The city's official facebook page is listed as Cedar City Corporation. The url for this page is: <https://www.facebook.com/pages/Cedar-City-Corporation/560295564017691>. The city's official Twitter page is @CedarCityUtah, and its url is <https://twitter.com/CedarCityUtah>. These pages are managed under the direction of the City Manager by the city administration's Executive Assistant. Any departmental facebook and Twitter pages are managed under the direction of department heads. All official social media sites will adhere strictly to the city's social media policy, which is currently being written. The policy should be in place by the beginning of 2014.

## Broadcast Media Promotion

Any radio or television advertisements should identify Cedar City verbally (and visually on television) when promoting a specific program, event or facility. If an advertisement or promotion is broadcast on television, the official Cedar City logo should be used whenever possible. The city's branding committee should be included in the creation and placement of any broadcast media advertising or promotion.



# Internet Branding

## Email Signature

Email is often used to send official Cedar City communication. A uniform email signature line that is used consistently is a simple way to reinforce the city's brand. Below is a sample of the standard email signature line for the city, and the fonts and colors used to create this signature:

**Brennan Wood**  
**Economic Development Director**  
Cedar City Corporation  
10 North Main Street  
Cedar City, UT 84720  
Office 435-865-5115  
Mobile 435-233-0055  
wbrennan@cedarcity.org

Name: Myriad Pro Bold 16 pt. - PMS 301 Blue  
Title: Myriad Pro 16 pt. - PMS 301 Blue  
Contact Info: Myriad Pro 12 pt. - Black

Logo: Cedar City Social Media logo.jpg



## Photography Guidelines

Photography to be used in publications must be at least 300 DPI to result in high-quality, clear images. Also, make sure to determine whether you are obligated to give credit to the photographer. Typically, if you have paid for the image, you are not obligated to credit the photographer (unless the purchase agreement specifies that you must credit the photographer). If you do not own the photograph, you should receive approval to use the photograph and give credit to the photographer in the publication. Finally, remember that it is often helpful to include a caption under the photograph explaining what is being depicted even if the text in the publication explains the photograph.

## Photography Styling

Image style is very important. It will be the driving force to draw attention and establish the mood and feel of Cedar City. These particular styling guidelines apply to promotional pieces, not editorial. The image style should have high emotional appeal. Use high-end photography with a non-pedestrian sensibility, whether it is stock or high-concept, original photography. Take great care when searching for or producing the perfect shot. The images should be very light in tone and the settings should be bright. Cedar City is surrounded by amazing natural beauty. Consider the surroundings and lighting of photos you use. People should look like they're enjoying themselves. Choose candid shots are preferred over obviously staged shots. Try to avoid shots with people looking directly into the camera. Any shots with city workers, they should appear dependable, friendly, competent, and helpful. Citizens should look happy.



# Media Interview Guide

## Media Interviews

Cedar City employees have the right to speak with the news media. You also have the right not to talk to the news media. When talking to the media, never talk about rumors, subjects outside your scope of responsibility, or those issues of which you have no direct knowledge.

The public has a right to know what the city does. The media is one of the most effective means for telling our story. Sometimes the message is not what the media and public want to hear. But, the truth is what they must always hear from us, and it ultimately maintains their trust in the city and our credibility.

### Before the Interview

- Talk to your supervisor or department head.
- Know the reporter, publication, and audience.
- Respect the media's curiosity and its right to know public matters
- Know what you want to say. Have two or three main points in mind.
- Know current issues in your department. Do your homework.
- Prepare for the toughest questions or "worst-case scenario."
- Know the following rules: Off the record, background, attribution, hold for release, direct and indirect quotes.

### Interview Tips

- ABCs: Be accurate, brief, and clear.
- Be quotable, conversational, and colorful. Don't use technical terms, jargon, or be long winded.
- Be positive. Instead of problems, talk about solutions.
- Make your point.
- Address the audience, not the reporter.
- Don't let false or incorrect statements go uncorrected. Don't repeat these in your answer.
- Don't let the reporter interrupt or cut you off before you are finished.
- Never say "no comment." Explain you can't address items that are beyond your scope of responsibility.
- Never answer speculative or hypothetical questions.
- Never lie. Assume the reporter has other sources and facts.
- Never say anything off the record.
- Never get mad, or at least don't show that you are. Stay cool under pressure.
- Never ask to review a story or check the reporter's facts.
- A skilled reporter will attempt to get into a casual conversation with you before or after the formal interview in an effort to obtain additional information. The entire encounter should be considered part of the interview. Nothing you say should be considered "off the record."

## Media Interviews, continued

### Telephone Interviews

- Review the tips listed above.
- Be accommodating, but do not feel rushed just because the reporter is rushed. If the reporter wants to interview you without prior notice, ask to know the purpose of the interview. Then, ask if the reporter can call you back at a later time to allow time to organize your thoughts.
- Use notes and take time to articulate your responses as succinctly as possible. They can't use what you don't say.
- Know if the interview is recorded. If for radio or television, know if it is live or pre-recorded.

### Television Interviews

- Review the tips listed above.
- Wear the appropriate attire and look sharp.
- Get comfortable. Try not to be too stiff or too relaxed.
- Be pleasant, sincere, and confident.
- Always be professional before and after the camera is on. Again, assume that the entire encounter is part of the interview.

**City Council**  
**AGENDA ITEM #11**

**INFORMATION SHEET**

**TO:** Mayor and City Council

**FROM:** Cedar City – Iron County Office of Economic Development, Brennan Wood

**DATE:** January 22, 2013

**SUBJECT:** Consider agreement with GOED regarding taxi lane expansion

**DISCUSSION:**

Cedar City Office of economic development received a \$350,000 economic opportunity grant from the Governor's Office of Economic Development from the Industrial Assistance Fund to support the expansion of the Cedar City Airport for MSC's SJ30 Project.

I will act as the Project Manager for this grant and will track expenses, invoicing and reporting during the contract period. I will do the same for the EDA portion of the project. Cedar City Attorney Paul Bittmenn reviewed this contract and made recommended changes. Based on these changes I recommend that we move forward with an approval.

# Economic Opportunity CONTRACT



1. **CONTRACTING PARTIES:** This agreement is between the State of Utah, Governor's Office of Economic Development, referred to as STATE, and Cedar City  
**Attention: Bennan Wood**  
**10 North Main Street**  
**Cedar City, UT 84720**  
**Referred to as CONTRACTOR**  
**Federal Tax ID: 87-60000215**  
**Legal Status of Contractor**  
☐ Sole Proprietor  
☒ Non-Profit Corporation  
☐ For-Profit Corporation  
☐ Partnership  
☐ Governmental Agency
2. **GENERAL PURPOSE OF CONTRACT:** To provide funding to Cedar City to develop and construct a taxi lane at the Cedar City Regional Airport (the "Project").
3. **PROCUREMENT:** This contract is entered into as the result of the Governor's Office of Economic Development Board approving an Economic Opportunity grant from the Industrial Assistance Fund and the Governor's Office of Economic Development to provide funding to support the Project.
4. **CONTRACT PERIOD:** This contract is effective February 28, 2013 and will terminate on March 1, 2015, unless extended by mutual agreement of both parties.
5. **CONTRACT:** CONTRACTOR will be paid a maximum of three hundred and fifty thousand dollars (\$350,000) to be distributed during the contract period. Cedar City will invoice the Governor's Office of Economic Development for any expense within the following cost classifications: Administrative and Legal expenses; Land, structures, right-of-ways, etc.; Relocation expenses and payments; Architectural and engineering fees; Project inspection fees; Construction; and Contingencies. All invoices sent by Cedar City shall reflect the full expenditure and the Governor's Office of Economic Development will reimburse twenty-six percent (26%) of each invoice up to the maximum amount of three hundred and fifty thousand dollars (\$350,000).
6. **ATTACHMENTS INCLUDED AS PART OF THIS CONTRACT:**  
Attachment A - Standard Terms & Conditions  
Attachment B - Special Provisions & Project Description
7. **DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED HERETO:**  
All other governmental laws, regulations, or actions of the State of Utah applicable to services provided herein.

**8. POST PERFORMANCE AUDIT:**

AUDIT INFORMATION: Tamra Dayley, CPA, 60 East South Temple, Third Floor, Salt Lake City, Utah 84111 (801) 538-8860, is the STATE staff person responsible for the contract audit.

**IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.**

**CONTRACTOR**

**STATE**

\_\_\_\_\_  
**Maile L. Wilson**  
**Mayor**

\_\_\_\_\_  
**Spencer P. Eccles**  
**Executive Director**

[Seal]  
Attest:

\_\_\_\_\_  
**John G. Bell**  
**Finance Manager**

\_\_\_\_\_  
**Contract Number**  
**Division of Finance**

\_\_\_\_\_  
**Renon Savage**  
**Recorder**

**ATTACHMENT A**  
**STATE OF UTAH STANDARD TERMS AND CONDITIONS**

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63G-6, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** The Contractor and any and all supplies, services, equipment, and construction furnished under this contract will comply fully with all applicable Federal and State laws and regulations, including applicable licensure and certification requirements.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** The Status Verification System, also referred to as "E-verify", only applies to contracts issued through a Request for Proposal process, and to sole sources that are included within a Request for Proposal. It does not apply to Invitation for Bids or to the Multi-Step Process.

**5.1 Status Verification System**

1. Each offeror and each person signing on behalf of any offeror certifies as to its own entity, under penalty of perjury, that the named Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of the contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws including UCA Section 63G-12-302.
2. The Contractor shall require that the following provision be placed in each subcontract at every tier: "The subcontractor shall certify to the main (prime or general) contractor by affidavit that the subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with applicable immigration laws including UCA Section 63G-12-302 and to comply with all applicable employee status verification laws. Such affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work."
3. The State will not consider a proposal for award, nor will it make any award where there has not been compliance with this Section.
4. Manually or electronically signing the Proposal is deemed the Contractor's certification of compliance with all provisions of this employment status verification certification required by all applicable status verification laws including UCA Section 63G-12-302.

**5.2 Indemnity Clause for Status Verification System**

1. Contractor (includes, but is not limited to any Contractor, Design Professional, Designer or Consultant) shall protect, indemnify and hold harmless, the State and its officers, employees, agents, representatives and anyone that the State may be liable for, against any claim, damages or liability arising out of or resulting from violations of the above Status Verification System Section whether violated by employees, agents, or contractors of the following: (a) Contractor; (b) Subcontractor at any tier; and/or (c) any entity or person for whom the Contractor or Subcontractor may be liable.
  2. Notwithstanding Section 1. above, Design Professionals or Designers under direct contract with the State shall only be required to indemnify the State for a liability claim that arises out of the design professional's services, unless the liability claim arises from the Design Professional's negligent act, wrongful act, error or omission, or other liability imposed by law except that the design professional shall be required to indemnify the State in regard to subcontractors or subconsultants at any tier that are under the direct or indirect control or responsibility of the Design Professional, and includes all independent contractors, agents, employees or anyone else for whom the Design Professional may be liable at any tier.
6. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
  7. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
  8. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State of Utah, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the acts or negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence. Contractor assumes all liability and damages it causes or incurs.



9. **EMPLOYMENT PRACTICES CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
10. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
11. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by authorized persons of the parties hereto, and attached to the original signed copy of the contract. Automatic renewals will not apply to this contract.
12. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently or have ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
13. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon sixty (60) days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
14. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.
15. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is 11736850-010-STC, located at <http://purchasing.utah.gov/contract/documents/salestaxexemptionformsigned.pdf>. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
16. **WARRANTY:** The Contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The Contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the Contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the Contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The Contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the Contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.
17. **PUBLIC INFORMATION:** Contractor agrees that the contract, related Sales Orders, and Invoices will be public documents, and may be available for distribution. Contractor gives the State express permission to make copies of the contract, related Sales Orders, and Invoices in accordance with the State of Utah Government Records Access and Management Act (GRAMA). Except for sections identified in writing and expressly approved by the State Division of Purchasing, Contractor also agrees that the Contractor's response to the solicitation will be a public document, and copies may be given to the public under GRAMA laws. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
18. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.
19. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency

purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.

20. **PROMPT PAYMENT DISCOUNT:** Offeror may quote a prompt payment discount based upon early payment; however, discounts offered for less than 30 days will not be considered in making the award. Contractor shall list Payment Discount Terms on invoices. The prompt payment discount will apply to payments made with purchasing cards and checks. The date from which discount time is calculated will be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date will be the date of acceptance of the merchandise.
21. **PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. After 60 days from the date a correct invoice is received by the appropriate State official, the Contractor may assess interest on overdue, undisputed account charges up to a maximum of the interest rate paid by the IRS on taxpayer refund claims, plus two percent, computed similarly as the requirements of Utah Code Annotated Section 15-6-3. The IRS rate is adjusted quarterly, and is applied on a per annual basis, on the invoice amount that is overdue. All payments to the Contractor will be remitted by mail, electronic funds transfer, or the State of Utah's Purchasing Card (major credit card).
22. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
23. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.
24. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.
25. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
26. **PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63G-6-1002, Utah Code Annotated, 1953, as amended).
27. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. Attachment A: State of Utah Standard Terms and Conditions; 2. State of Utah Contract Signature Page(s); 3. State Additional Terms and Conditions; 4. Contractor Terms and Conditions.
28. **ENTIRE AGREEMENT:** This Agreement, including all Attachments, and documents incorporated hereunder, and the related State Solicitation constitutes the entire agreement between the parties with respect to the subject matter, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written. The terms of this Agreement shall supersede any additional or conflicting terms or provisions that may be set forth or printed on the Contractor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of the Contractor that may subsequently be used to implement, record, or invoice services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of the State. The parties agree that the terms of this Agreement shall prevail in any dispute between the terms of this Agreement and the terms printed on any such standard forms or documents, and such standard forms or documents shall not be considered written amendments of this Agreement.

(Revision date: 12 July 2011)

**ATTACHMENT B**  
**PROJECT DESCRIPTION**

1. **SCOPE OF WORK:** The Scope of Work for this contract shall be funding to support the building of a taxi lane at Cedar City Regional Airport.
2. **NATURE OF PROJECT:** The CONTRACTOR agrees to use the funds to be provided by the State pursuant to this contract in connection with the building of a taxi lane at Cedar City Regional Airport.
3. **SCHEDULE OF PAYMENT:** The STATE agrees to pay the CONTRACTOR a maximum of three hundred and fifty thousand dollars (\$350,000) to be distributed during the contract period.
4. **UNUSED FUNDS:** Any funds not used for the Project specified in this contract will be returned to the State.
5. **AUDIT:** The CONTRACTOR will allow State auditors to make audits and inspections of all records relating to this Contract. The CONTRACTOR will maintain available for audit and inspection the records of expenditures relating to this Contract until all State audits are completed, or for a period of four (4) years, whichever is longer. The CONTRACTOR will refund to the STATE, in the same proportion as was paid to the CONTRACTOR, expenditures determined by audit to be ineligible for reimbursement under the terms hereof or in accordance with State and Federal law.
6. **CONTACT PERSON:** The STATE designates Tamra Dayley as the Contact Person for the Governor's Office of Economic Development to consult with the CONTRACTOR on an ongoing basis. The Contact Person will provide the CONTRACTOR with guidelines, standards, procedures, and reporting requirements on which the STATE will review progress and evaluate performance hereunder.
7. **PROJECT MANAGER:** The CONTRACTOR designates Brennan Wood as the Project Manager for the Project. The Project Manager will provide the State with reports, written or verbal and coordinate the matching funds of the participating parties.
8. **PROJECT DESCRIPTION:** The building of a taxi lane at the Cedar City Regional Airport.
9. **NOTICE:** CONTRACTOR agrees to immediately notify the STATE if during the course of this Contract a change or reorganization occurs that affects the Project's mission or its ability to perform under the terms and conditions of this Contract. Changes or reorganizations that require notification to the STATE include but are not limited to the following:
  1. Change in status and /or standing of the building.
  2. Any change or reorganization that the CONTRACTOR reasonably expects would be of interest or value to the STATE in the administration of this Contract.
10. **DISBURSEMENT OF FUNDS:** CONTRACTOR will request disbursement of funds on official letter head specifying the dollar amount requested for the disbursement of three hundred

and fifty thousand dollars (\$350,000) and distributed during the contract period.

11. **REPORTS:** The CONTRACTOR will submit to the State a final written report of activities and achievements of the Project by no later than July 1 of the year following the final disbursement of funds during the term of the Contract. This final report will address the success or failure of the Project and its intent. CONTRACTOR will also provide a written description and documentation showing how the funds provided from the IAF Economic Opportunity grant were used to build the taxi lane at Cedar City Regional Airport.

**CEDAR CITY  
COUNCIL AGENDA ITEM 12  
STAFF INFORMATION SHEET**

**TO:** Mayor and Council

**FROM:** Kit Wareham

**DATE:** January 22, 2014

**SUBJECT:** Review Bids for the East Bench Trail Phase 2 Bridge Project

**DISCUSSION:**

Bids for the subject project were received last Friday. The project includes two steel pedestrian bridges. As shown on the attached bid summary sheet Cameron Bridge Works of Elmira, New York had the low bid of **\$59,422.00** for the two bridges. The engineer's estimate was \$79,000. The bridges were included in the estimated and budgeted amount for the entire trail project of \$337,000.

It should be noted that this is a bid where the City's local bidder preference policy would apply. This policy basically states that if a local bidder's bid is within 5% of the lowest non-local bidder then the local bidder has an opportunity of matching the low bid within 72 hours of being notified. A local bidder, Construction Steel, Inc., submitted a bid of **\$60,164.00** for the two bridges which is within the low bidder's price as shown above plus 5%, which would be **\$62,393.10**. The 72 hour notice to match the low bid has been given to Construction Steel and as of the writing of this information sheet there has been no response.

City Council still does have the option of awarding this bid to the low bidder if they desire. Whoever the bid is awarded to, it would be on the condition that the contractor provide the required executed bonding, insurance documents, immigration status verification and that the Mayor be authorized to sign the contract with the bridge supplier.

## East Bench Trail Phase 2 Bridge Project Bid Summary

Engineers Estimate		\$79,000.00
Contractor		Bid
B. Hansen Const		\$89,346.40
Stringer Bridge		\$84,000.00
Van Con Inc.		\$83,000.00
Construction Steel		\$60,164.00
Contech Engineering		\$59,970.00
Excell Bridge		\$59,900.00
Cameron Bridge Works		\$59,422.00
\$ -		\$0.00
\$ -		\$0.00
\$ -		\$0.00

**CEDAR CITY  
COUNCIL AGENDA ITEM 13  
STAFF INFORMATION SHEET**

**TO:** Mayor and Council

**FROM:** Kit Wareham

**DATE:** January 22, 2014

**SUBJECT:** Review Proposed Sewer Rates for Hometels

**DISCUSSION:**

It has been proposed that the City establish a separate monthly sewer rate for Hometels. Hometels are basically one bedroom apartment units rented monthly that can also be used for motel rooms rented on a daily basis (see attached definition). Hometel units are currently charged a sewer rate of \$23 per month if they are used for apartments and the motel rate if they are used for motel units. Since all the hometel units are really used for apartments, they are now charged the apartment rate.

The \$23 per month sewer rate for apartments is the same rate charged for a residential home since the average water usage in an apartment ranging from 1 to 8 bedrooms is similar for an average size home. However, hometels are limited by definition to 1 bedroom per unit (see attachment) and the average historic water use and proportionate sewer flow from in a hometel unit reflects the limited occupancy with the one bedroom. Where an average home or apartment has water usage and sewer flow for 3.02 occupants per dwelling, a hometel unit has water usage and sewer flow for 1.34 occupants per dwelling. **Based on this decrease in water usage and sewer flow from a hometel unit, it is proposed that a separate sewer rate for hometels be established at \$11 per month per unit.** ( See attached calculation sheet)

It is always a concern when you lower a utility rate on how the decrease will impact the utility's overall budget and its ability to operate. However in the situation with hometels, there are only two complexes of hometel units in Cedar City. One complex has 49 units, owned by the Leavitts and the other complex has 29 units owned by the Boyers. With an average of 60 units occupied per year, the resulting decrease in annual sewer revenues for this proposed separate rate would be **\$8,640.**

All walls approximately parallel to and not more than twenty five (25) feet from a street line are to be considered as adjoining a street.

(66) Guest: Any transient person who rents or occupies a room for sleeping purposes.

(67) Guest House: An attached or detached dwelling structure with a total of one (1) bedroom located on a lot with one or more main dwelling structures and used for housing of guests or servants, and not rented, leased or sold separate from the rental or sale of the main dwelling. Guest houses are subject to the setback requirements of a one-family dwelling unit (not an accessory building).

(68) Guest Room: A room which is designed for occupancy by one or more guests for sleeping purposes, but having no cooking facilities and not including dormitories.

(69) Hard Surfaced: Asphalt, concrete or brick pavers.

(70) Height, Building: A vertical dimension measured from the highest elevation in the front of the structure to the top of the plate line.

(71) Heliport: A landing area solely for the landing of helicopters. A heliport may include more than one helipad.

(72) Home Occupation: An occupation carried on entirely within a dwelling by a person residing within the dwelling, and where there is no visual indication from outside the building that the occupation is being carried on therein.

(73) Hometel: A building or buildings containing one-bedroom dwelling units which are primarily used for apartment style living, being rented on a monthly basis. However, the dwelling units may also be used as a motel being rented on a daily basis. For parking requirements see Section 26-39. Water and sewer connections are the same as apartments. Setback requirements are the same as motels in CC and GC zones. A Hometel is not permitted in residential zones.

(74) Hospital: Hospital means an institution licensed by the State of Utah which provides diagnostic, therapeutic, and rehabilitative services to individuals on both an inpatient and out patient basis by or under the supervision of one or more physicians. A medical clinic or professional office which offers any in-patient or overnight care, or operates on a 24-hour basis shall be considered to be a hospital. A hospital may include necessary support service facilities such as laboratories, out-patient units and training and central services, together with staff offices necessary to operate the hospital.



## HOMETEL SEWER USER RATE CALCULATIONS

[illegible]

